DOCUMENT RESUME

ED 118 331 RC 009 006

AUTHOR Austin, Keith, Comp.; And Others
TITLE Land-Use Symposium Proceedings: Privately Owned Rural Lands and Land-Use Planning (7th, Albuquerque, New Mexico, October 15-16, 1975).
INSTITUTION New Mexico State Univ., Las Cruces. Cooperative Extension Service.
SPONS AGENCY Department of Agriculture, Washington, D.C.
PUB DATE Jan 76
NOTE 101p.

EDRS PRICE MF-$0.83 HC-$6.01 Plus Postage
DESCRIPTORS *Decision Making; Economic Factors; Energy; Environmental Influences; *Federal Government; Food; Futures (of Society); Global Approach; *Land Use; Local Government; *Planning; *Rural Areas; Social Influences; Speeches; State Government; Symposia
IDENTIFIERS *New Mexico; Private Lands

ABSTRACT

This report includes 14 speeches by State and Local representatives relative to the control of land use and land use planning. The speeches are: (1) "The Status of Privately Owned Rural Land in New Mexico" (a statement regarding the confusing status of current statistics); (2) "Keynote Address" (emphasis on local control); (3) "What Are the Pros and Cons of Planning for Privately Owned Lands" (two speeches, one emphasizing the role of the planning implementors and the other emphasizing the negative aspects of Federal control); (4) "Land Use Planning Needed to Meet Long Range Food and Fiber Needs"(a global approach emphasizing American responsibility); (5) "State Laws Affecting Land Use Planning" (a review); (6) "An Assessment of Some Advantages and Disadvantages of Current Techniques in Land Use Planning and Control" (zoning and subdivision control; growth management and development timing; etc.); (8) "Economic Implications of Land Use Planning for Privately Owned Rural; Lands"; (9) "Response: Social and Environment Implications"; (10) "For the Best Interest of New Mexico, Who Should be Involved in the Decision Making about the Changing Uses of Privately Owned Rural Lands" (three different speakers); (11) "How Should New Mexico Plan for the Privately Owned Lands" (a panel presentation). (JC)

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7TH ANNUAL
LAND-USE SYMPOSIUM
PROCEEDINGS

OCTOBER 15-16, 1975

ALBUQUERQUE, NEW MEXICO

RC009006

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7TH ANNUAL LAND-USE SYMPOSIUM PROCEEDINGS

OCTOBER 15-16, 1975

ALBUQUERQUE, NEW MEXICO

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Box 3AE
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Published: January 1976

SPONSORED BY

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WELCOME

Presented By

Gerald W. Thomas

Gerald W. Thomas is President of New Mexico State University, Las Cruces, New Mexico.

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It is my pleasure to welcome you to the 7th Annual Statewide Land Use Symposium. I want to express my thanks to the cooperating agencies and organizations who put this Conference together and stress the importance of the theme--privately owned rural land. This is the most sensitive and critical issue that we have discussed to date in these symposiums. It gets to the heart of a very controversial issue, and it gets into an emotional situation that is very important to all of us, regardless of whether or not we own private lands.

Hopefully, you and I will emerge from this session with more knowledge. At this point in time, it is my belief that we should stress research and education -- research to disclose the alternatives that we have in regard to the use of our land and education to emphasize and to understand the implications of these alternative solutions. We are all concerned about what happens to the future of this country because of pressure from population within and without. In order to make decisions, all of us need to be better informed. That is the purpose of this conference.

It is called a statewide conference not because the Conference is promoting statewide versus local control, but because we are interested in participation from all sectors of the society in this state. We've held the Conference consistently in Albuquerque because we get better participation in Albuquerque and for no other reason. And I think this is the appropriate place for a statewide conference of this magnitude. New Mexico State University's involvement was because of our interest in research and education, and we hope that we can contribute to increasing your knowledge of the information that's available to all of us in the decision-making process--why land use is this critical today, and why it will become even more critical as we face a changing situation in the United States and a future which continues to challenge all of us.

Welcome again to this Conference. We have a distinguished group of speakers. I want to express my thanks to them. I'm sure that we will all gain from this experience.

THE STATUS OF PRIVATELY OWNED RURAL LAND IN NEW MEXICO

Presented By

George R. Dawson

George R. Dawson is Head of the Department of Agricultural Economics and Agricultural Business, New Mexico State University, Las Cruces, New Mexico.

* * * * * * * * * * *

As we approach the Bicentennial year, it is well to reflect on the changes that have occurred in concepts toward land ownership and use. Is land a private commodity or a public resource? Private ownership has, since our early history, been a goal and an ideal in making land policy in the United States. Various policies led to shifting lands from public to private ownership. Over the past fifty years, the proportion of land in such ownership has been relatively stable. Practically all cropland is in private ownership. Nearly two-thirds of the federal and over one-half of the state's land are in the western half of the United States. The rights in land, public and private, are now being reexamined as we see legislation being developed for land use planning.

My assignment was to present a report that would focus on the status of privately owned rural lands in New Mexico. At first glance, this did not appear to be much of a problem as I knew we had references with official data on land and its uses. Once we started to tabulate data, we found that the various agencies' data does not match up either for a given time or over time and the various tabulation methods used were many. Thus, this report will be made using far less than desirable data as they relate to accuracy and, thus, the conclusions that can be drawn. In spite of these difficulties, I do hope that the exercise will be of use to you as we open this 7th Annual Statewide Land Use Symposium.

Land Use Ownership

In order to set the stage, let's take a quick look at two maps to get a general picture of the ownership and use patterns in the state.

Land Ownership (Map)*. While this map serves to highlight the various ownership types, I show it to principally demonstrate the situation as to the location of private owned lands. For purposes of this presentation, private owned lands are all lands not federal, state or Indian owned.

Obviously, the Northeast quarter and East side of the state are largely private ownership while the other areas are largely federal, state and Indian lands.

The white area includes private owned deeded lands and designated land grants. In the Albuquerque area, most growth is on privately owned lands. Along the Rio Grande, there is a narrow valley floor of private lands such as in the Bernalillo and Dona Ana County areas and this gives rise to land use planning concerns in such areas. This does not mean those same concerns do not exist elsewhere in the state, but that there are characteristics in different parts of the state that deserve attention.

Privately owned lands are so located, in large part, due to the historical settlement pattern and homestead development which was tied to a source of water--and the resulting use development of public lands.

Land Use (Map)*. The predominant land use is again obvious as range and woodlands and forest. The light green shaded areas represent irrigated cropland and brown is dry cropland. The scattered nature of these lands and small size of the areas are of particular importance. It is reasonable to state that most of these croplands are in private ownership.

Your attention is especially called to the East side of the state where all irrigation is done by pumping water from underground storage. The projected life of that water places a reasonable certainty on it reverting back to dry land by around the turn of the century or slightly beyond.

The Rio Grande Valley is irrigated by surface water supplemented with pumped water. Here it is of importance to note the limited land area suitable for irrigation with current supplies and technology. Urban developments on these limited lands, currently and in the projected future, give rise to concern for these lands and our agricultural based economy. These issues are to be discussed later in the program. I show you the map now as a background reference point for later consideration.

Status of "Statistics"

Data sources vary, in some cases considerably, as to acreage in the state as well as the component subparts of that acreage. For example, acreage in the state varies by as much as 152,000 acres or 237 sections. Conclusion: Our state is "live and breathing" and measurements are apparently taken at different stages of the inhale-exhale process. Therefore, I cannot tell you whether they reflect actual acreage changes or simply calculation-summarization differences of different agencies or techniques adopted for different time periods. Yet, there is a good deal we can learn from these data if we bear in mind that full credibility should not be given to the specific numbers--i.e. take them only as close approximations of the facts. Because of the difficulties encountered in finding data that was consistent in method of reporting between years, I have for the most, used the New Mexico Blue Book as the basic reference.

Land Ownership. For the 1971-72 reporting period, we have tabulated the ownership of three major categories--private, state and federal (table 1)*. In this case, Indian lands are included in the federal data--even though this is acknowledged as not technically correct. Indian lands make up

about 7.3 million acres or 9.4% of the total land in New Mexico. Therefore, federal land is overestimated by this approach.

The major reason for this aggregation method was to focus on the quantities of lands subject to taxation--i.e., private lands. In column 3, you will note that San Juan has the least with only about 5.4 percent in private ownership. Counties with less than 20 percent in private ownership are Catron, Dona Ana, Eddy, McKinley, Otero, San Juan and Sierra. Counties with greater than 80 percent in private ownership are Curry, Colfax, Guadalupe, Mora, Roosevelt, Quay and San Miguel. Seven counties thus have less than 20 percent and seven counties have greater than 80 percent in private ownership. These differences cause problems in financing county government in the counties having a low proportion of the land subject to taxation. Please note that in this table, inland water-way acreages are excluded from land area totals.

An attempt was made to see what might be occurring over time as to how the ownership pattern may be changing (table 2)*. Attempts to get data for a longer time period led to considerable frustration due to the different ways reports were put together. As indicated at the outset, there should not be much made of these percentage changes as they may or may not be correct. Yet, if they are correct, we see a small change, an increase, in the proportion of lands in private ownership. I was not able to pinpoint the specifices of what has taken place to bring this about.

At any rate the statewide averages are about 44 percent in private ownership and 56 percent in federal, state and Indian lands. These averages, while meaningful, really do not tell the important story. They do reflect a possible small proportional change toward private ownership.

In table 3*, we have attempted to report the proportional change in private ownership by county over the period 1959-60 to 1971-72. Here you will note that some counties lost private lands while some counties gained. Fourteen counties lost, seventeen counties gained, and one remained unchanged in the proportion of lands in private ownership. For the most part, the magnitude of change was small. However, in some cases, Torrance, De Baca, and Lea counties, the increase was over nine percent while in Taos and McKinley counties the loss was in excess of ten percent.

It is important to remind you that these computations were performed on data for the different time periods where the total acreage in the state was different for each time period. While this would possibly change the proportion statistics shown a little, it is not believed that there would be much change in the proportional change even if the base acreage totals were all the same. Again, I do not know the specifics on these indicated changes. I really do not believe these changes occurred, at least in the magnitude indicated.

Land Use. Now to shift the focus, see table 4* to examine the changes that have occurred over time in land use patterns. Again these data vary considerably by source, so should be interpreted with great caution.

Of significance here is to note that about 90 percent of the lands are in grazing and timber while there is only about 3.5 percent in cropland. Again, it is urgent to note that this is reported as about half and half dry and irrigated land. This particular item disturbs me very much as it is not possible to determine just what lands were included in the totals. They do not coincide with more recent data on dry or irrigated lands. Yet, an important point starts to come into focus here and that is the limited acreage in irrigation and the fact that it has been 3.0 to 3.5 percent over the time period reported of about 25 years. Now, look at the urban built-up area change and note that this has increased from about 117,000 acres in 1945 to nearly 740,000 acres in 1970, for an increase of about 630 percent. You will also note significant increases in the amount of land that is in use as defense, roads, parks and game refuges. If you would note the urban use change and bear this in mind as you move through this Conference and consider the pros and cons of land use planning proposals. In particular, bear in mind the impact this urban use growth has had and will continue to have on agricultural lands around most of our growing urban areas.

Land Use--By County*. In tables 5 and 6, you will observe a breakdown of the land use by county. While I do not have to review all these data, I do want to point out that tables 5 and 6 should be examined together. Table 5 reports the acreages and table 6 reports the percentages for each use by county.

Two columns of data are called to your attention--Urban Built-up and Irrigated Cropland. I do this to focus on the fact that urban built-up areas have increased markedly over the past 25 years and there is great probability for that type of change to occur in the future. The question that needs consideration is "Where will those new urban lands come from?" Note Bernalillo County for the glaring example where there are 46,000 plus acres in the urban built-up category now. That acreage makes up 11.52 percent of the county. The irrigated acreage of 13,240 makes up only 1.70 percent of the county. If Bernalillo County continues to grow--what will happen to the irrigated croplands? This same question applies to all growth communities along the river valleys in particular, and in pump irrigated areas in general. In the case of Bernalillo County there just isn't that much irrigated land to take for that growth, so it would require in addition the use of lands other than the irrigated lands (assuming continuation of past use decisions). Please understand that I am not trying to imply the goodness nor badness of such acquisitions here, but merely pointing out the potential impacts on our limited irrigated lands as urban pressures increase.

Concluding Comment. In closing, this was to be a report on the status of rural privately owned lands but maybe it should be parenthetically subtitled the "status of the confusing statistics about New Mexico land ownership."

While the numbers used are not exact, they do appear to be representative of the numbers we have. I understand the State Engineer Office has just completed a new tabulation for the State Water Plan which should probably have been used in this report as they have tried to reconcile many of the differences found in the various statistical sources. However, these would not have permitted an analysis over time.

My advice to you at this time is to: a) Use these tables with extreme caution or b) discard them now. They should be used only as indicators and not absolutes of acreages or changes over time.

It is apparent that: a) The pattern and location of private owned lands create problems for land use planning decisions. b) Pressures on limited irrigated land for use in urban development is a certainty. Irrigated agricultural land is threatened by this development. c) Acreages of private owned lands result in a very small tax base for some counties. d) There is not much water where most of New Mexico's privately owned land is located. e) We need much better statistics on our land ownership and land uses before we can draw anything more than broad generalizations about any changes that may be occurring over time. I urge that we get at that task as soon as possible. At the minimum, one figure should be settled upon as to the size of the state and all agencies use it to reconcile the data they tabulate on use, etc., by county.

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*See Appendix A for tables mentioned in text of speech. Map is unavailable.

KEYNOTE ADDRESS

Presented By

Pete V. Domenici

Pete V. Domenici is a United States Senator from New Mexico.

* * * * * * * * * * *

I really think this is one of the most vital symposiums that people in New Mexico could participate in. I think we are dealing in one of the most difficult subject areas as far as national legislation is concerned, and I do want to spend time reviewing the history of national land use legislation. It is going to take me a little while to do this. I do not usually go into great detail on pending legislation; however, I think this is a subject which warrants a detailed examination into the history of national land use planning. First, let me tell you how I generally feel about Federal legislation which establishes more bureaucratic red tape.

When I went to the United States Congress as your Senator, my only brush with legislation was in attempting to wade through the massive, confusing, and often inconsistent laws, rules, and regulations that were attendant to the Federal programs. These programs were designed to help the city that I happened to be elected to serve. So I went up there with the general idea that I could have a little bit of input in making these laws a bit more meaningful, more relevant, a little less duplicative, and perhaps more precise. Well, I regret to tell you that I have almost made a turn-about. I am nearly convinced we cannot do that. It appears to me that even some of the simplest ideas become expanded and complicated as they are developed into national legislation.

I think the Federal Government is looked to more and more by people, cities, states, and special interest groups as a source of drafting a piece of legislation that will instantly cure the ills of the entire country, even though there are diverse regional problems. When you look back at the history of the kind of law, you find that it usually ends up doing as much harm as it does good. This is not to say that the goals were not good. However, you must develop broad legislation which will be acceptable to the majority of the Congress. This, of course, necessitates compromise which, in turn, tends to add complications. I will tell you a couple of experiences of the past several months that best epitomize our failures up there.

Last year the Congress of the United States passed an election campaign reform act. It was a rather popular idea and was promoted by many concerned individuals. The bill started out with a couple of simple little ideas and ended as a thick legislative package with broad and far-reaching ramifications which are still being discovered.

Another example is the Congress' attempts to develop a national energy policy. I believe we all agree there are three main goals of any responsible national energy policy. These are (1) conservation, (2) increased domestic production, and (3) less dependency on foreign supplies. However, working this into a legislative package which is acceptable to the majority of the Congress is extremely difficult.

The Federal Government does not have an extremely good track record when it comes to national policies and programs for the good of the entire Nation. This is not to say that there are not some very important areas that the Federal Government should be involved in. One such area that comes to mind is defense.

With regard to land use planning, I think we ought to try another way. Land use planning ought to have its roots at the local level. At the very maximum states ought to be involved in passing laws that tell the counties and cities and the people what is expected by way of protection of their great resources within that state's boundaries. This should be our first step. You who are concerned about Federal legislation should stop resisting it at the state level. If you don't get on with some land use planning at the state level in a comprehensive manner, you may be assured that you are going to get national land use planning. It might start off in a small way, but then it will become more and more nationally controlled with more Federal strings attached. It appears almost certain that government planning, regulation, and control would expand.

We certainly know from past experience that when Congress establishes a new agency, it gives broad and vague authority to establishment of operating criteria. As we have recently found with the Federal Energy Administration, the agency has little difficulty moving in directions and areas neither intended nor mandated.

Those who agree that it ought to have its roots at the local level should begin now to establish plans. Arizona has tried land use planning and cannot get it done. New Mexico tried it and they could not get it done. Montana tried it and they have not accomplished the task. Then there are those who want us to do it in Washington.

You have got to know that this great resource called land, private and public, has to be protected and preserved. The private rights of land owners is indeed a right which is coveted and should be respected, but it carries with it great responsibilities. And, it cannot be permitted to be abused as it has been in the past. This, of course, does not mean that we should take away private ownership. It just means that we have a difficult job in this country and all of you leaders in this particular area have a responsibility to get on with the job.

I think we all realize that these are changing times, and that you all have a very serious responsibility within your counties and in your cities and in the State to do your job to get on with some type of land planning.

I know that some counties have started their own land use planning, and I compliment these efforts. Several people from around the State have sent me the proposals which have been established. These folks, especially those around the Silver City area, have produced a concept of land use planning for that area that definitely has its roots in the people there. If you cannot trust county commissioners and city commissioners, if you cannot go to them and get what you think is right and fair and takes care of your rights, then how in the world are you going to get anything from the national level? How are you going to be hurt there? Some people think that we should bypass our local people and have it done on the national level and that the local people would still have some input. Well, I have found this is tough. We in Washington are far, far away. In spite of the fact that we try to come back and talk to people in the State, we simply cannot get the input that local officials can get because of their close proximity. Local government planning can respond to the diverse values and preferences of citizens.

Once Congress passes a law, we tend to assume that the particular problem the law was intended to remedy has been solved. When in fact, we should have some type of oversight to assure that the legislation is providing relief in the manner we had envisioned. Just as importantly, we need to have some type of idea what the legislation as it is written might do to people in our own State. I think you understand that I am very concerned because we really cannot control or understand or appreciate the significance of laws we have passed up there, especially those that have huge areas of jurisdiction which leave areas for regulation and bureaucratic discretion. This concerns me greatly.

I hope you will all take this bill and look at it carefully and give us your views, individually or collectively. You should tell us how it is going to affect New Mexico. You should tell us what your thoughts are on an alternate or better way to get the job done.

Now with that, rather than going through the history of land use planning legislation at the national level from 1970 to this point, let me just say that I would be delighted to furnish you with a summary of each of the bills, where they went, how they started, and how they finished, and where the two bills are in each of the two respective Houses at this point. I think it is vital that you take the current bill and the bill that is pending with reference to the BLM Organic Act, which has to do with public lands, it's Senate bill 507 or House bill 5524, and become informed as to the provisions of these measures. If you contact me, I will be glad to send you a copy of the summary. You may use the summary privately or in the respective organization which you represent to assist in preparing your comments to me.

I do not want to leave this podium with any of you thinking that I think the Federal Government ought to get involved hook, line, and sinker in land use planning on the national level. Quite to the contrary. I think they ought to be involved to a minimum, if at all.

I hope you will have a very successful meeting and that from it will come a better understanding of the problems and some kind of consensus as to where we should be going in land use planning. I know that there are many excellent speakers scheduled to come before you in the next few days. And, I truly hope you will come forth with some good ideas, some positive thrusts in some areas that you are concerned about. These deserve your attention and your ever diligent efforts to assure that programs which are developed both on the local, State, and Federal level are programs which will enhance the quality of life in New Mexico without too many more infringements on personal rights.

WHAT ARE THE PROS AND CONS OF PLANNING FOR PRIVATELY OWNED RURAL LANDS?

Presented By

Orlando Cervantes

Orlando Cervantes is presently manager of the J.F. Apodaca Farms in La Mesa, New Mexico, and a professional engineer doing architectural work in Las Cruces, New Mexico.

* * * * * * * * * * *

After the fine presentation with Dr. Thomas and Dr. Dawson, and a fine presentation by Senator Pete Domenici, I feel like I should have stayed at the farm. But I do want to express my thanks for being here and sharing with you this experience on a subject which I feel is very important to us in the farming industry and all of you who live out in the country. I compliment Keith and the others involved in the arrangement of this symposium, and also all of you planners, government officials, as well as interested citizens for recognition of the importance and official benefits to be derived by input by those who would be most directly affected by legislative planning of rural lands for the farmers, ranchers, for people who live in those areas, whether or not they have a periodical knowledge about the mechanics involved in planning. That they have a feeling for the situations which will result and that they will be affected most directly are reasons enough for obtaining their input. Even though I feel strongly about the needs for planning of rural areas, you will find we have ties going out in different directions. But I assure you that it is not because I am not fully convinced that planning in those areas is essential, it is because it would be difficult not to recognize the problem and situations which need to be satisfied in order for planning of rural areas to be of benefit, not only to the private owner, but the community as a whole.

If we were to take a look at two extremes involved in the question of planning of rural lands, we would find on the one hand those that believe that all of the rights belong to the state and that only the state can determine what use that land should be put in order to provide the greatest benefit to the community and also to the individual. On the other hand, we would find those who believe that all of the rights belong to the individual owner of that land and his determination for use of that land which belongs to him will result in best use of that land, not only to his benefit, but ultimately to the community.

Without going into the different methods of obtaining ownership, I think that we could safely say that private ownership of land is derived through an investment by an individual or a group of individuals for the value of a piece of land. But if we are to investigate the true value of any piece of property, we would readily see that the value of that land is based on an investment, not only from an individual, but also to some significant extent by other members of that community. Roads, schools, water systems, sanitation

systems, police and fire protection, etc., all contribute to the value of a piece of land. And so it is that we wind up with a sort of a dual ownership, a partnership so to speak, with the ownership of any piece of land; and as in any partnership, which has the slightest chance to succeed, certain perimeters of interest and influence, along with a clear understanding of the benefits that each of the partners are to receive from that partnership, have to be very clearly and precisely defined. In a partnership which, in essence, does exist between an individual owner and the community in which a certain land is located, planning and zoning regulations are the documents which establish which each is to receive from that partnership. That this document became necessary in some point in time to the development of a community can best be recognized by again, taking this theory to extremes - a remote piece of land, regardless of what the owner does, as long as he does it within the confines of his property, will not affect others. The other, a land so integrated into the community that anything that an owner does, regardless of whether or not he does it within the confines of his property, will, in essence, affect others. In the latter, I think it can justifiably be argued that planning and zoning regulations are unnecessary; but in the other situation, I think that few would not admit that some rules are necessary - not only for the protection of those who would be affected by the actions of the owner within his property, but also to protect the very owner of that land from those who would prevent his rightful use of that land merely because they object to whatever he wanted.

And if we look around, we will see that the stage of development where most activity within a parcel of land does, in fact, affect others, it's not in the future. It is already in the past. People in the rural areas, as in the urban areas, are not against planning. How can they be? It is a way of life for all people to a varying degree.

Nor is planning something new, for planning in one form or another has existed throughout all recorded history. The farmer is a natural planner. He plans what fields his different crops are to be placed on, how to get water to the different fields, irrigation schedules, fertilizing programs, harvesting, marketing -- all require tremendous amounts of planning. The rancher, in like manner, is a planner when he considers what pastures to graze his cattle on, feeding programs, cutting, buying, selling -- all require planning. The corrals of a feeding operation are a clear example of planning. Irrigation systems, field arrangements, equipment, barn, shops, all require planning. And if we look at any business, we will readily see that the success or failure is directly related to the amount of planning that went into it. The housewife is a natural planner. The arrangement of rooms within the house, the planning of meals, shopping, transportation, budgeting, all require planning.

At times, we tend to believe that some of our older communities were developed and grew without any amount of planning, but that is not really true. Planning is fundamental to any constructive thought. But that their planning did not follow procedures established for our present planning processes is evident, and it is also evident that it was not done by government, but by the individual. If we take a look at how people really feel about planning at the governmental level, I believe that instead of finding opposition we

would find confusion. And that is understandably so, for how can people help but be confused when our different levels of government cannot even decide among themselves as to what areas each is supposed to govern. When planning sessions are so lacking that, in some instances, the Sheriff's Department has been designated as the enforcement agency for planning and zoning ordinances. From planning districts, regional planning groups, councils of government, extra-territorial committees, and similar groups are daily being given birth and none of them really have a clear picture as to what their role on a subject is going to be. Under these conditions, the proposition by government to people on planning has the resemblance of a boy's attempt to seduce a girl by asking her to join him in some activity which he has never done before, which he does not know what it's called, which he has no idea where it's going to take place, but he tries to convince her that it's for her own good and that she might get something out of it.

If the people are to be seduced, they should at least be convinced that the enjoyment is going to be greater than the pain. The planning and zoning should be done at the local level because otherwise the state or federal government will do it. That it should be done in order that certain monies may become available to that community adds to the confusion. Any planning and zoning ordinance should be designed in order to encourage the most appropriate use of land, to conserve the statewide civil property, to provide equitable space of life and air, to prevent and to permit adequate protection of fire, to prevent undue congestion of populations, to lessen traffic congestion, to facilitate adequate provisions for community facilities and utilities, including transportation, water, sewage disposal, schools, parks and other public requirements, which will promote the public peace, health, safety, morals and general welfare. For me to stand here and tell you that any planning and zoning ordinance adopted by a community will do all of that will be nearsighted on my part.

So, regardless of how well designed and thought out a plan may be, it will only be as good as the people who implement it. And to that end, the legislators must not only make certain that any plan which they adopt is appropriate and suitable for that area, but also that they have the machinery in motion to properly implement it to its intentions and to its purposes. Under a well-designed plan, with flexibility to allow for the initiative, the imagination, the competitiveness, the adventurousness, of a free-enterprise society, implemented by professional people, responsible to elected officials who answer to the public, would remove land from the gambling table or from the state of limbo where it now exists. It would make it more liquid. It can let institutions feel more secure in their investments. It would allow for utility companies to plan and to provide for better services to the people. It would allow governmental departments, such as highway departments, engineering departments, sanitation, building departments, to anticipate and to make provisions to meet the ever-increasing demands of a growing community. It would allow for private owners to feel safe in their investments knowing that if they live up to their part of their agreements with the rest of the community, then he would be able to use his land in its best interest.

If the problems of planning and zoning are traced back to the forms of government which people are familiar with and to which they have elected public officials, and if these public officials live up to their responsibilities at the different levels of government within their political boundaries, only then will the confusion and, along with the confusion, the opposition subside - before planning and zoning can be adopted for the betterment of you and I.

WHAT ARE THE PROS AND CONS OF PLANNING FOR PRIVATELY OWNED RURAL LANDS?

Presented By

John F. Bigbee

John F. Bigbee is manager of Bigbee Brothers Cattle Company, Encino, New Mexico, and a New Mexico State Representative.

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I was asked to give the "con" side, as it said on the program, but I don't think that is quite right. I am not really against land use planning. I'm very much for land use planning. It's just a matter of where you do it. I am for land use planning so long as I am able to plan the use of my land, and you're able to plan the use of your lot, where you plant the garden, what you plant, and so forth. So I am very much for land use planning.

Let's examine what we're talking about when we do talk about land use planning, and from any level of government. My remarks this morning will be directed mainly at the federal level, as far as land use planning is concerned, and to some extent, the state level.

Now I think it should follow to any reasonable person, that if any level of government is going to plan the use of your land, then obviously regulations are involved. So I think that land use planning is pretty much a misnomer. We're not really talking about land use planning, we're talking about land use regulations. So let's stop calling it land use planning and fooling the people. Let's call it what it is -- land use regulation.

I'm reminded somewhat of the old Spanish decho that went something like this, "when your belly is full, your heart is happy." And that's pretty much the situation that we, as Americans, find ourselves today. Everyone's belly is full. In fact you see more people that are worried about too full a belly and reducing than those that are hungry. So I think that we should take a moment to examine why we're willing to tinker with the system that made our belly full -- and certainly if our belly wasn't so full, we wouldn't be willing to tinker or even think about tinkering with it.

Let's look at what the system is. Let's do a little comparison. Is there anyone in this room who would deny that Russia, for example, doesn't have 100 percent land use planning or zoning or regulation or call it what you will. I don't see a single hand. And who is it that's hungry right now and wanting to buy our grain -- Russia and many other countries. Our bellies are so full, there's been a lot of talk about the wheat exports. Did you know that we are producing three-fourths more wheat than we can consume? And yet, we have a union striking saying we better not send that wheat to Russia, we're going to increase the cost to the housewife. Thank God we've got that wheat to export.

Did you know that we can double the price of wheat, absolutely double it, increase it 100 percent and it will affect the price of a loaf of bread only four cents. We not only are in that kind of a position with wheat, just name any other agricultural commodity. Did you know that every day of the year, we export 14 ship loads of agricultural products? Can you say that about any other product? Thank God we have individual land use planning. That's why we can export this. That's why our panzas are yeno. Furthermore, we do this with less than 5 percent of the population. Did you ever think about that?

One of the things that impressed me the most about the recent task force by our agricultural department sent to Russia to examine the true grain situation over there was one of the stories that a farmer told when he got back. Besides government officials, there were a few farmers on the task force. He said, "You know, the first farm that they took us to was exactly the same size as the farm that I own and operate. The main difference was this: On that farm in Russia, they had 1,100 people on it ... 1,100." On his farm he had 11 operating. Eleven compared to 1,100. Who's wanting our wheat? I think also that we should look at some of our experience, not only in New Mexico, but in the nation. What has been our experience with lands that have been managed by the federal government? Did you know that of the 480 million acres that the feds operate, their revenues don't pay the cost of administration? I bet if you turn that 480 million acres over to the King brothers, it'll pay their costs of administration. You know it would. Is there anyone in this room who saw a band of sheep in the high mountains? I don't see a single hand. There's two, three. You're lucky folks. You remember the movie, I think the title of it was "And Now Miguel"? Well, now there is no Miguel. Miguel and his folks have been systematically cut and cut and cut in their allotments until finally the day came when they told Miguel's folks, "Now look, you're going to have to pack your mules, every single one, and move. You can't camp in the same place every night". If you want to go into the mountains, hunt, fish, whatever, you can camp in the same place for several months, but none of that sheepherding. So if you saw a band of sheep on the mountains this summer, you're lucky. I can remember 15 years ago when we saw lots of them. Now the price we pay is increased welfare.

When you look at the southern part of the state -- let's look at White Sands for example. Two million acres taken out. One hundred families moved off. They moved off voluntarily though because it was a wartime situation. They had sons and daughters fighting in the army, and they were concerned. They had a patriotic strength, which I think we all should. But when they moved off, they were promised that their places would be kept intact and maintained at least to the degree that they had left them. You might remember last winter, the Albuquerque Journal ran a series on these people and what had happened to them. Now a picture of one of the homes on White Sands Missile Range. It's now just a tumbled down wreck. That's how it was maintained. That was the land stewardship that those people have experienced.

Down in Texas, right now, around Fort Hood, which is what the experts call prime agricultural land, the army's wanting almost 60 thousand acres. And if experience tells us anything, I think we know who will win. The army

probably will. They always have. I can look at Torrance County and several others here. I know one particular area of a hundred and five homesteads. Now, this same area supports approximately five to six families. Now what's the reason? The reason simply was that this land was not being used to its highest potential, what it was suited for. But it was not a government agency or the planning office or what have you that came in and said, "Look folks, you're not using this land as you should." It was the old American free enterprise system that said, "You fellows are not using it, and you're going to have to make the adjustment," and they did. The system will work. It has in the past, and it will in the future.

I can remember on this bean story, Governor King and I were talking about it just last night, and he was talking about the time that beans were selling about $12.00 a hundred. The government came out and said, "We're going to put a floor (it was an election year) under beans, and we're going to set the minimum price at $8.00." Well, everybody in the valley thought, "We haven't had any experience with this so we thought that didn't sound too bad. We might as well go in and plant all we can. We know we're not going to get under $8.00." Well, it was that very first year that the $8.00 was a cinch, and the government had every bean pot full that they could think of. So the next year they lowered it to $7.00. And the next year to $6.00, and you know the rest of the story. It kept on going. Very quickly, the minimum becomes a cinch.

I think, that if the federal government is really serious about their concern about agricultural land coming out of production, then they should look at one of the main reasons that they are responsible for making it come out of production. That is the estate tax laws. I'm sure that everyone in this room has had some experience or knows a family that has had some agricultural land, a member of the family died, and what were the heirs faced with? They were faced by the IRS with a market valuation, subdivision valuation of that agricultural land. And you know how liquid that is, and how liquid the assets of a farmer and rancher are. They're just not very liquid. But yet he has to come up with a tax on that land in nine months! Cash on the barrelhead. So what happens? His alternative is that he usually has to find someone willing to pay a subdivision price for it and sell it to him to pay the tax. And who's responsible for it? The feds are. If they're serious about this, why don't they do something about what's causing it.

I think another cause we've all got to face up to is that these products that we are producing are really the cheapest in the world, relative to our income. That is part of agriculture's problem. It's so cheap. We've been so efficient in production that we can't compete with the subdivider. Except, does anyone here in this room know of some sugarbeet acreage that this past year has gone into subdivision? I sure don't. The sugarbeet farmer can compete. He made a big enough profit that he can sit on that land and if he wants to use it to produce, he's in a position to do it.

We hear an awful lot of talk about zoning. The farmers and ranchers should get together and do something about this and zone ourselves to protect ourselves. We should consider, (like some states - New Jersey) establishing development rights and buying those rights from the landowner. Let's really

examine what that is before we put our foot in that trap. When you dedicate a piece of land to a specific use you have dedicated it to that use and don't think that the next time you go to the bank to get a loan on that land the banker isn't going to look at that, because you have affected the value of it even if you don't want to sell it. Who knows, maybe a few years down the road you might want to sell that farm for a factory, but you've zoned it and it's not dedicated for a factory. It's dedicated to agriculture.

I think also in studying this thing, we should look at some of the experience that we have had with commodity management by the government. And one of the things that comes to my mind is money. Now I don't think anyone could disagree that all of the tools for money management are located in Washington. They're the ones who levy the taxes, they're the ones who do the spending, they're the ones who by deficit spending establish the erosion of the dollar; they're the ones who do it. I think that if you were looking at it from an overall standpoint, from the federal level standpoint, I think anyone in this room would have to agree with me the management of money, if you have all of the tools located in one place to do it, would be infinitely simpler than the management of land. Because land, every single tract, is different --soil characteristics, flow, climatic conditions. It's infinitely different, from one mile to the next, and we think the government can manage this land.

When we talk about money management, I think we should compare it a little bit farther. Money is a commodity that is not subject to drouth, as land is in New Mexico. You don't have to irrigate it every week to keep it green. It's just infinitely simple, except for the erosion factor. The government's management policies on the dollar have eroded the value of that dollar beyond belief. If you can picture a piece of land that has eroded and been mismanaged as badly as the American dollar, I think you would have to picture a piece of land that had a gully maybe 30 or 40 feet deep every few feet and no vegetation on it. That's the extent of the erosion. In their money management policies, they've gotten this country six hundred billion dollars in debt, the interest of which costs every American citizen, even if he is a baby, close to $3,000 a year. And we think that they might be able to manage land?

I think that we should be thankful for thinking about these things. I think we should be thankful to NMSU for sponsoring these symposiums. I am hesitant to say, but in the past I have often felt and I mean this sincerely, that the positive side of what we've got has not been stressed enough. And I am thankful for this opportunity to attempt to stress what I think is a positive side of what has made la panza yeno de los Americanos. I think Pogo summed it up better than anyone else when he said, "We has the found the enemy and he is us."

LAND-USE PLANNING NEEDED TO MEET LONG-RANGE FOOD AND FIBER NEEDS

Presented By

Kenneth L. Williams

Kenneth L. Williams is Field Representative for the Soil Conservation Service, Portland, Oregon.

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It's a pleasure for me to be here in Albuquerque again and to see so many familiar faces of folks I worked with in past years while State Conservationist with the Soil Conservation Service.

I'm well aware of the efforts many of you have been carrying on for years and years on behalf of good land use planning within this state and around the nation. The dialogue you have initiated reflects well on the orderly progression of steps that must be taken to achieve grass roots participation in this amazingly complex business of land use planning, for I honestly believe that land use decisions can only come to pass when all segments of the populous have grasped its significance to our quality of life in the future.

You have asked me to speak on the land-use planning needed to meet long-range food and fiber needs. For many millions of Americans in cities and towns this need for food and fiber is crucial to their lives, yet these very people have little or no idea that some things need to be done--some decision needs to be made--and soon--to guarantee future fiber and food in adequate supply. The things I'm referring to include commitment to save prime agricultural land, unique agricultural lands and agricultural lands of statewide importance or agricultural lands of local importance. A commitment of this nature, one that carries with it an unbreakable pledge to the future, intrudes into economic, social, environmental and personal factors that touch the lives of all Americans wherever they live.

To state the problem simply, we need to do three things to guarantee future food and fiber production. We need to:

State very precisely that we are going to guarantee every man, woman and child in the world an opportunity to share the benefits of agricultural production, because we are responsible citizens who have accepted the facts of growing population, the vagaries of weather, the continuing pressures on productive lands and the ultimate (if not the present) energy crunch.

We need to conduct a survey to "discover" what is happening to agricultural lands and to locate those acres with future potential.

We need to create the laws, the designs, the economic and social understandings, the teamwork and the desire to use the prime agricultural lands, the unique agricultural lands and those lands of statewide or local importance for agricultural production. I perceive that this final objective will be the most difficult.

Let me go back over these points and expand on each of them. The first point is the matter of statement and commitment. The Secretary of Agriculture's Memorandum No. 1827 dated October 26, 1973 has some key phrases in it to commit the 80 programs in USDA that touch land use decisions. Through these programs, the memo states, can be delivered to local and state governments, a variety of research, educational, technical and financial kinds of assistance. Assistance that will guide local and state governments toward land use planning decisions made by landowners and users. Secretary's Memo 1827 further states Department policy and states the Department policy and states the Department will "adapt present pertinent programs to help enhance and preserve prime agricultural, range and forest lands for those uses."

Memo 1827 also commits program emphasis to "help guide urban growth to preserve prime farm lands, minimize fragmentation of land buildings, provide adequate water supplies, equalize taxes, dispose of waste properly and provide adequate public health, recreation and safety services." Yes, that's a big order to fill but the point is that the USDA is laying itself on the line with a promise to go in this direction. A commitment has been made.

My second point of progress needed to send this nation in the direction of land use planning to meet food and fiber needs, concerns the need for "surveying" to find where we are and what potentials we have for the future. You folks in New Mexico have already moved substantially in this direction. Here, the Soil Conservation Service has cooperated with the State Engineer's Office and the Soil and Water Conservation Commission on a joint effort to identify the extent of arable land within New Mexico.

Further, your land use planning law calls for involvement by Soil and Water Conservation Districts. This means local input is part of the planning effort. In short, you are combining local knowledge with good scientific investigative procedures to measure the land. In many ways New Mexico is fortunate because you have more acres of real estate per capita than most other states. This means land use planning can direct its efforts toward letting agriculture occupy prime to unique agricultural lands while all other kinds of expansion development can occupy agriculturally deficient lands.

But nationally the alternatives aren't always available. Earlier we had many indicators of prime land being pre-empted by developments in California, Illinois, Florida and elsewhere. One only had to open his eyes to see what was occurring. The Conservation Needs Inventory of 1967 confirmed almost 266 million acres of land that could be adapted to growing crops but these are lands that would require extensive water development, extensive clearing

and high levels of management to get them into production--production that would often be limited and chancy rather than the guaranteed top production of prime land. This same survey revealed the loss of many thousands of acres of prime land to other uses.

Thus we have come to the point at which USDA has confirmed its belief that prime and unique lands, plus farmlands of state and local importance must be preserved by good land use planning.

Secretary's Memorandum 1827 has this to say about monitoring and inventorying to learn where these lands are: The Department will provide additional resource information to local and state governments by expanding at the earliest feasible time its surveys and studies to include: a nationally recognized system of land classification; county, state, regional and national inventories of available soil, water, and related resources and projection as to land-use potentials; guidelines to identify critical environmental problems to be considered in state and local land-use policy planning; identification, location and productivity ratings of farm, range and forest land.

Obviously this is a big order. It will take manpower and time. The Soil Conservation Service has, for some years, been engaged in developing a land classification system that requires only a few interpretations, once the field soil mapping has been done, to determine which acres are "prime" and which are unique to food and fiber production.

We expect that current soil mapping techniques will allow everyone (not just the trained soil scientists) to know the extent and location of the best land for food, feed, fiber, forage and oil seed crop production so that the Department can focus its efforts on those lands which are of greatest importance to the nation. Likewise states and counties will be able to know the extent and location of additional farmlands that are of statewide or local importance for food, fiber, feed, forage and oil seed crop production.

How will this be accomplished? Obviously, the first objective is to complete the nationwide Cooperative Soil Survey as soon as possible. The job is currently about 55 percent finished but many surveys are outdated and need to be redone. However, the tempo of soil survey work is accelerating. For example, the State of Idaho has put up funds to hire 10 more soil scientists to work along with SCS soil survey parties. Many other states and counties have contributed in a similar manner.

As soil surveys for counties or areas are completed it is merely a matter of applying the standards for prime and unique lands to these soil surveys, checking with local people for additional farmland of statewide or local importance, and then preparing interpretation maps for the use of local and regional planning groups. They in turn can assess the prime and unique lands for their purposes of planning.

You are probably wondering what, precisely, is "prime" farmland? The current definition reads like this and is based on physical criteria. It has the soil quality, growing season, water management and moisture supply needed to produce economically sustained high yields of crops when treated and managed according to modern farming methods. Some examples of soils that qualify as prime farmland are Palouse silt loam soils in Eastern Washington, on 0 to 7% slopes; Sharkey clay along the Mississippi bottomlands on 0 to 5% slopes--if it has flood protection; Brookston silty clay loam in Western Ohio--if it has been drained; and Tama silty clay loam in the cornbelt of Iowa and Illinois--on 0 to 5% slopes. Soil scientists have developed very specific criteria that concern soil temperature, reaction, wetness, soil moisture regime, salinity, flooding, erodibility, permeability and rock fragments.

Here in New Mexico the prime farmlands are found along the Rio Grande Valley, along the Pecos near Roswell, the irrigated high plains around Clovis, Clayton, Portales and Lovington; the lower country around Deming and on both sides of the San Juan near Farmington.

Unique farmlands are a different story. They are not necessarily prime farmland but unique farmlands are used for the production of specific high-value food and fiber crops that are of critical national concern.

They have a unique combination of soil quality, location, growing season, and moisture supply needed to produce high quality and/or high yields of a specific crop when treated and managed according to modern farming methods. Examples of specific crops are citrus, olives, cranberries, fruits like wine grapes, and vegetables. An example of unique farmlands here in New Mexico would be the acreage around Hatch--the Chile Capital--used to grow the many kinds of chile peppers that have been so profitable because of their high quality. Quality that is a combination of breeding and research done at New Mexico State University and the particular climatic conditions where peppers are grown.

In many respects, identifying these unique lands is somewhat akin to identifying unique habitats that are critical to the survival of a given species of wildlife--and once lost they cannot be replaced.

Additional farmlands of statewide importance or of local importance are those lands that are determined by appropriate state agencies, or local agencies, to be important to local economies. One example I would cite in New Mexico is the acreage near Espanola devoted to specialty crops for the Mexican-American restaurant and individual food trade. Here, Pete Casados, and many small farmers have put together a thriving business of specialty products like blue corn for blue corn meal posole, red chiles and the like. If these lands are not "prime" or "unique" it is probable that local residents might want them listed as being of special importance because they contribute to a local industry and to the economic well-being of the entire area.

I'm sure you can visualize the vast Federal, State and local input needed to identify prime land, unique land and lands of statewide or local importance.

Even more important is the next phase, decision making. But I think I see favorable signs that will tend to save our most important lands. I sense the evolving of a new land ethic that defines the responsibility of land users. Yes, we <u>are</u> moving in the direction of more restrictions on land use but because we are no longer <u>willing</u> to accept excessive soil loss (like the 300 tons per acre per year in some sections of the Washington Palouse country); because we realize erosion is tied to water quality, wildlife habitat and economic and social welfare. We are also moving toward new opportunity for farmers to farm without the worry that high taxes, labor problems and threats of development will restrict his ability to do an efficient job. The opportunity to "sell" this concept is the challenge we all face. It affects both rural and urban people so intensely that the best efforts of all must be applied.

Is it really worth all of the effort required to make all the decisions that must be made to identify and preserve "prime," "unique," and "state or locally important" farmlands? I know it's worth it--I should say we <u>must</u> do a job of land use planning--because I have been talking now for about 20 minutes. During that time the world population has increased by more than 2500 persons. By this time tomorrow there will be 190,000 more people in the world. That adds up to one and one-third million a week.

One month from today, there will be five and three-fourths million more people to feed and clothe. Can we provide for five and three-fourths million more people in just 30 days?

Our abundance is in jeopardy! We are on a collision course with land, people and proverty! We have the scientific expertise! But do we really have the depth of commitment and social consciousness to bring to pass the land use planning that will dedicate our best lands to food and fiber production? If we do, we will also create a new and higher level of conservation for the benefit of all mankind.

STATE LAWS AFFECTING LAND USE PLANNING

Presented By

Richard H. Folmar

Richard H. Folmar is Assistant Director of the New Mexico Legislative Council, Santa Fe, New Mexico.

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When I agreed to talk with you today on the subject of "State Laws Affecting Land Use Planning" I had no idea what I was getting into. Dealing with this subject reminds me of the old comedy routine one used to see in Laurel and Hardy movies. You know the one I mean, where Stanley sees a loose thread on Ollie's coat and tries to pull it off and one thread leads to another until the whole sleeve drops off. Poor Stanley got more than he bargained for. Well, researching those laws which affect rural land use planning begins easily enough with the thread of regional and local planning laws. Before long, however, if you keep pulling one thing leads to another you feel like saying (as Ollie inevitably said to Stanley) "Well, Keith, here's another fine mess you've got me into."

More than sixty years of law making has produced a considerable number of statutes which in some degree do affect rural land planning. My problem has to do with the word "affect." It's not a very precise term. It reminds me of the philosopher who went out for a stroll. He met a friend who asked, "How is your wife?" The philosopher pondered this and answered, "In comparison to what?" The word, "affect" applies as equally to a law granting zoning authority to a county, as it does to an 1899 statute pertaining to the construction of mill ditches. For our purposes here today I have of necessity been more selective than the subject deserves.

In order to spare us all some tedium, I omitted many of them which in fact, do, in some degree, have an effect upon planning for use of rural private lands.

Included in this category are laws which grant general authority to governmental agencies to perform certain governmental services. Examples of this type of law are those granting to the state highway commission and counties the power to build roads; the park and recreation commission the authority to create a state park or recreational facility; the university board of regents the power to establish a branch community college; and the corrections board to build a new women's facility.

By omitting them, I don't intend to imply their lack of importance to the land use planning process. Certainly, we all know that selection of a site for an interstate or primary highway, a state park facility, a university

campus or a correctional institution can and does have a significant impact on land use planning for the adjoining lands. Construction of a highway permits commercial, residential and industrial development nearby. Purchase of a state forest recreational site does tend to discourage commercial development, but on the other hand it may stimulate second home development and forest-related commerce and industry.

For reasons more of time rather than importance, I also omitted that category of recent legislation which can be generally classified under the term "environmental." For the most part those laws impact upon industrial operations and development rather than upon the individual rural land owner. For example, the Coal Surface Mining Act, while having specific land use planning application in terms of land restoration requirements, does pertain only to strip mining operations. In like manner, the rural land owner is little affected by environmental improvement board or agency regulations pertaining to air quality standards.

I am using the term "affect" as it applies to land use planning to mean those laws which: (1) pertain to the land use planning structure and process itself; and (2) provide some identifiable direct control over the private use of rural land, thereby, necessarily, affecting the planning process for such land.

Finally, I would perhaps unnecessarily remind you that the existence of a law between the green covers of the New Mexico Statutes, 1953 Compilation, doesn't necessarily indicate an operative program. Many of these laws stand like dead, dusty statues--memorials to a goal no longer deemed important. Others remain ticking like time bombs waiting only to be exploded into action by an aggresive administrator, operational funds or both.

For many reasons, I am not going to attempt to evaluate the operational or non-operational status of these laws, nor their effectiveness in land use planning today. That task must wait upon another time.

Planning Laws

First, let's look at those laws in New Mexico pertaining to land use planning itself. Here, we find a surprising number enacted over a considerable period of time, for a variety of reasons. For this reason, it is not surprising that they do not present a portrait of a coordinated and comprehensive land use planning effort. Nonetheless, the statutory picture for planning is anything but bleak.

State Planning

At the state level we find the State Planning Act makes a broad verbal gesture toward land use planning (Sections 4-20-3 NMSA 1953, et seq.).

This law, enacted in 1959, envisions a state planning office concerned primarily with planning. One of its specific functions is to "cooperate

with and provide planning assistance and advice to local governments and planning agencies. This includes, but is not limited to, surveys, land-use studies, urban renewal plans, technical services and other planning work" (4-20-3).

The state planning office is also permitted to provide planning assistance to Indian tribal governments and non-profit entities "having for their purposes local, regional or community betterment" (4-20-3.1). In this connection, the planning office is permitted to enter into contracts and agreements with the tribal governments or the non-profit entities and the federal government, with respect to the participation in federal aid for planning programs or assistance. Also in the planning area, the office is required to prepare, maintain and keep up to date a comprehensive plan for the development of outdoor recreation resources of the state (4-20-3).

Natural Resources Conservation District Planning

We go all the way back to 1937 for the origin of a law (quite familiar to most of you here) that provides for land use planning in connection with the work of natural resource conservation dist.icts (you will remember that originally they were called "soil conservation districts," then later, "soil and water conservation districts").

The land use planning aspects of these laws is inherent in the overall statutory objective and goals of natural resource conservation. The guidelines for the creation of local districts specifically require evaluation of "the prevailing land use practices" (45-5-48). In establishing the general powers of districts, the guidelines permit development of "comprehensive plans for natural resource conservation and development, including detailed implementation procedures and plans for "land-use changes" (45-5-59).

At the state level, there is a requirement that the natural resources conservation commission, "upon request and within budget limitations, provide land use planning assistance in the areas of terrain management consisting of flood control, drainage, erosion and measures required for adapting proposed development to existing soil characteristics and topography" (45-5-47.1).

An interesting historical sidelight of this law is the fact that from 1937 to 1961 it provided that soil conservation districts in New Mexico had the power to adopt and enforce land use regulations governing the use of lands within their district in the interest of conserving soil and soil resources (45-5-10). The 1961 legislature repealed this authority as the request of the state soil and water conservation committee.

Regional Planning

Most comprehensive of all the planning laws, in terms of land use, is the Regional Planning Act (14-57-1 et seq.). Enacted in 1967 it permits two or more cities, two or more adjacent counties, or one or more counties and

a municipality, to establish a regional planning commission. The counties or cities can delegate to the commission any or all of their respective planning powers and functions (14-57-2).

When created, a regional planning commission is required to prepare a plan or plans for the development of the region as a whole. This plan must be based on studies of physical, social, economic and governmental conditions--and trends. This plan should aim at the coordinated development of the region. Among other things it must include: (1) a statement of the objectives, standards and principles sought to be expressed in the plan; (2) recommendations for the most desirable pattern and intensity of general land use within the region in the light of the best available information concerning: a. natural environmental factors, b. the present and prospective economic and demographic bases of the region, and c. the relation of land use within the region to land use in the adjoining regions; (3) recommendations for the general circulation pattern for the region, including land, water and air transportation and communication facilities, whether used for movement within the region, or to and from adjoining areas; and (4) recommendations concerning the need and proposed general location of public and private works and facilities which, by reason of their function, size, extent, or for any other cause, are regional, as distinguished from a purely local concern (14-57-5).

State proponents of a comprehensive land use planning bill could do worse than to re-read this piece of legislation. Almost ten years old, I think it is surprisingly contemporary and unusually broad in concept, scope and purpose.

This act also provides for extensive planning assistance to governments, agencies, educational institutions and private organizations, and more importantly, for the coordination of their research.

The regional planning commission is also required by the act to receive and review for compatibility with its own regional plans--all proposed comprehensive land use, circulation and public facility plans and projects. This includes zoning and subdivision regulations, official maps and local government building codes within its regional area. After reviewing these plans and codes, the commission is required to make recommendations for their modification where necessary to achieve compatibility with its own plan (14-57-5).

The comprehensive regional plan must be approved by the commission after public hearing. It is then certified to all local governments in the region. This includes special districts. The parties to the regional planning agreement are then the constituent agencies for implementing the plan (14-57-6).

More recent in origin is the Planning District Act. This law was passed in 1973 and is primarily for the purpose of providing state grant-in-aid assistance to designated planning and development districts (15-59-2). This law in effect acknowledges by statute the existence of seven districts

previously created by an executive order of the governor. By its own terms the act is not supposed to conflict with the status of economic development districts, regional and metropolitan planning commissions or councils of governments created heretofore under the Regional Planning Act or the Joint Powers Agreement Act (15-59-3).

Incidentally, the Planning District Act is the only place that I can find statutory reference to the councils of government.

Joint Powers Agreement Act

Since the Joint Powers Agreement Act was mentioned, I think this is the place for some comment on that very useful law. The act (4-22-1 through 4-22-7) was passed back in 1961. It is the essence of pragmatism. It permits two or more public agencies to enter into an agreement to jointly exercise any power common to the contracting parties. A public agency is defined as the federal government, state government, the government of an adjoining state, a county, municipality, public corporation or public district of the state, a school district or a state educational institution.

Under its provisions, a county and a municipality, or two or more counties, or any combination of governments all having the authority to exercise the same power such as zoning or land use planning for example, can by agreement jointly exercise this power. In this manner there can be a uniformity of regulation and enforcement throughout the area of the jurisdictions concerned.

As I intimated before, it's a very handy device for bypassing obstructions created by an inflexible government structure.

County Planning

Although municipalities have enjoyed the authority by state law to create a planning commission since 1947 (Laws 1947, Chapter 204), it was not until 20 years later that counties achieved the same right. In 1967 the legislature passed a law permitting any county to set up a planning commission appointed by the board of county commissioners (15-58-1).

These county planning commissions, when created, are equipped with the same general planning powers as are their counterparts in municipalities. By law, they have the ultimate goal of achieving a "coordinated, adjusted and harmonious development of the county to best promote health, safety, morals, order, convenience, prosperity or the general welfare as well as efficiency and economy in the process of development" (15-58-2).

The jurisdiction of the county planning commission is oddly enough not set forth in that chapter of the compilation pertaining to counties but rather in the Municipal Code (we suspect the reason from the following).

County planning jurisdiction is exclusive within the boundaries of the county, almost. It does not extend to that area lying within the planning and platting jurisdiction of municipalities (15-58-3; 14-18-5). Under the Municipal Code the planning and platting jurisdiction of a municipality includes the corporate limits of the city and extends five miles out into county territory from the boundary of any municipality having a population of 25,000 or more, and three miles into it from the boundary of any municipality having a population of less than 25,000 (14-18-5). We shall see more of the effect of this extra-territorial concept when we get to the subject of zoning.

In concluding this portion relating to planning laws of New Mexico which affect land use planning in rural areas, I would like to mention that part of the Municipal Code (14-18-9) which requires the municipal planning commission to adopt a master plan for the physical development of that area, five or three miles out from the municipal boundary, described as the "planning and platting jurisdiction of the municipality." At the time such master plan is made, this area could conceivably be mostly rural in character, while such land use plan would be urban oriented.

Laws Controlling Land Use

New Mexico laws which "affect" land use planning by control or regulation of land use in rural areas are even more numerous than those planning laws previously discussed. As a rule, however, the regulatory laws are usually more oriented to specific problems and are therefore of limited application. Nevertheless, within the boundaries of their applicability, they must be a consideration in any rural land use planning effort.

Zoning

Foremost among the kind of law I am talking about are those statutes conferring zoning authority upon the various levels of government. Zoning, as you well know, is one of the most common and oldest devices for regulating the use of land, although most certainly not the only device, nor necessarily the best.

New Mexico was among the 45 states which rushed to provide municipal zoning enabling legislation the year following the 1926 landmark decision of the United States Supreme Court which upheld the legality of zoning laws (Euclid v. Ambler Realty Co., 272 U.S. 365, 71 L.Ed. 303).

The law enacted by New Mexico applied only to municipalities, and the zoning authority applied only to that area within the corporate municipal boundaries.

This basic zoning power remained untouched in our law until 1959. In that year, the legislature gave zoning to counties, provided there was a municipality in that county with a population of more than 25,000.

Four years later the legislature also gave Los Alamos County the power to zone (that county having no municipality within its borders).

When the legislature adopted the Municipal Code in 1965, it also provided zoning authority for all counties.

According to the 1959 and 1965 acts, county zoning jurisdiction extended to any portion of the county that was not within the boundaries of the municipality (14-20-2). The following year (1966), however, legislation established, for the first time in this state, the concept of extra-territorial zoning jurisdiction for municipalities. Instead of restricting the zoning power of municipalities to their corporate boundaries, the new law extended it to the subdividing and platting jurisdiction of the city, which you will remember is five miles from the boundary of a municipality having 25,000 or more people, and three miles from the boundary of a municipality having less than 25,000 (Laws 1966, Chapter 64, Section 7). Of course, the other side of the coin of this action was that county zoning jurisdiction was diminished in applicable cases by five or three miles.

Unfavorable reaction to this law by some counties was practically simultaneous with its enactment. I know of one instance where it cost an innocent legislator his legislative career in the following election.

In the following legislative session (1967) this extra-territorial absolutism was partially diluted by permitting the county to be represented on a joint city-county extra-territorial zoning commission. This commission is empowered to approve or reject all extra-territorial zoning ordinances adopted by the municipality (14-20-2.1).

It is true that by 1967 it would seem that all counties had been given statutory authority to zone land within their jurisdiction. As an actual fact, however, only A class and H class (and later B class) counties had any clear zoning power because they had unlimited ordinance-making powers. A prevailing interpretation of the law held that to exercise zoning powers, the county must also possess ordinance-making powers. Although this interpretation was perhaps unnecessarily technical and open to question, it nevertheless cast a shadow upon the zoning authority of those class counties not having unlimited ordinance-making powers.

In any event, the 1975 legislature removed this shadow when it granted to all counties the same powers that are granted to municipalities, except for those that are inconsistent with the constitutional limitations on counties (15-36A-1). Specifically included in this grant is the ordinance-making power. This new law also provides that county ordinances adopted pursuant to it are effective within the boundaries of the county, including privately owned land or land owned by the United States. They are not effective, however, within the limits of any incorporated municipality (15-36A-2). No mention is made in this 1975 law of the extra-territorial zoning jurisdiction of municipalities.

There is in the Municipal Code another special provision pertaining to county zoning. This provision is called the "Special Zoning District Act." It allows a special zoning district to be created within the county when: A. there are at least 150 single family dwellings within the area; B. at least 51% of the registered electors residing in the area sign a petition asking for the creation of a district; and C. the signed petition along with a plat of the district is filed with the county clerk (14-20-16).

There are no square-mile restrictions in this law on the size of the district.

A five-man zoning commission can be established which has the power to regulate: 1) the height, number of stories and size of buildings and structures in the district; 2) the size of yards, courts and other open spaces; 3) the density of population; 4) the location and use of buildings and structures; and 5) the use of lands for trade, industry, residence, or other purposes (14-20-17; 14-20-19).

I am curious about whether this zoning law has ever been used.

Flood Plain Control

Federal pressure caused the 1975 legislature to enact a law that gives to counties and municipalities the authority to designate and regulate by ordinance flood plain areas having special flood or mudslide hazards (Laws 1975, Chapter 14).

Under its terms counties and municipalities can prescribe standards for constructing, installing or repairing buildings under a special permit system within such designated area. These governments may also review subdivision proposals for this area to assure that: A. they are consistent with the need to minimize flood damages; B. all public utilities and sewer, gas, water and electrical facilities and systems are designed to minimize flood damage; and C. adequate drainage is provided so as to reduce exposure to flood damage hazards.

Counties can also require new or replacement water supply systems or sanitary sewage systems within the designated hazard area.

Enforcement is by an approved inspector pursuant to the Construction Industries Licensing Act (14-17-5.1).

Any ordinance adopted by the county or city must conform to the minimum standards prescribed by Federal Insurance Administration Regulation No. 1910.

Subdivision Act

A major land use control by counties was conferred by the 1973 New Mexico Subdivision Act (70-5-1 et seq.).

This law required all counties to adopt regulations setting forth the county's requirements for: A. enough water for subdivision use; B. water of an acceptable quality for subdivision use; C. liquid waste disposal; D. solid waste disposal; E. sufficient and adequate roads; F. terrain management; G. specific information to be contained in the subdivider's disclosure statement; H. reasonable fees; I. summary procedures; and J. any other matters relating to subdivisions which the board of county commissioners feels is necessary to ensure that development is well planned, giving consideration to population density in the area (70-5-9).

Appropriate state agencies are required to provide guidelines and information, as requested, to the counties.

All 32 counties have adopted regulations under this 1973 law pertaining to control of subdivisions.

Airport Zoning

The lives and property of persons living in the territory adjacent to the airport as well as the users of the airport itself are the concern of a special airport zoning law found in Sections 44-2-11 and 44-2-12 of the 1953 Compilation of New Mexico Statutes. This law applies where an airport is owned by one political subdivision and any part of it, including the flight approach, extends into the territory of any other subdivision. It authorizes the creation of a joint airport zoning board. This board is vested with all the powers of a board created under the Municipal Airport Zoning Law (14-40-14 through 14-40-24).

The Municipal Airport Zoning Law permits both municipalities and counties to adopt and enforce airport zoning regulations. This is to be accomplished by dividing the area into zones and specifying the land uses permitted within each zone, as well as the height of structures and trees (14-40-18).

Non-conforming uses are permitted if they existed at the time of the adoption of the airport zoning ordinance. The act also establishes a permit system for variances (14-40-19).

In addition to their authority to zone, the county or municipality is empowered to remove, eliminate or relocate any structure or object located adjacent to the landing field that is deemed a hazard to the efficient and safe use of the airport. The county and city can also acquire all necessary lands or rights-of-way and easements over lands incidental to such removal upon payment of the owner (14-40-23).

Scenic Zoning

Two other zoning laws for counties and municipalities may have some implications for the rural land owner under special and limited circumstances. They are the Historic District Act and the Scenic Highway Zoning Act.

The Historic District Act was enacted in 1961. It provides that any county or municipality can adopt and enforce zoning ordinances that designate certain areas as historical areas. In the interest of preserving and protecting these designated areas, the zoning ordinance can regulate the erection, alteration and destruction of exterior features of buildings and other structures that are subject to public view from any public street or other public place (14-21-3).

The Scenic Highway Zoning Act was enacted in 1973. It also has limited application. However, the rural land owner, owning land within 500 feet of the right-of-way of any highway designated as a scenic highway zone, could have his use of and planning for this land very much restricted. The law permits the legislature to designate by joint memorial any highway as a scenic road. Once designated, the board of county commissioners is empowered to create a scenic highway zone covering 500 feet on either side of the highway right-of-way (55-14-4; 55-14-8).

Once the scenic highway zone is established, the county commissioners are vested with all the powers of a municipal zoning authority with regard to the control and use of real property, buildings and structures located within the zone (55-14-9).

The Highway Beautification Act, passed in 1966, has much the same intent as the Scenic Highway Zoning Act. The state highway commission is given control of outdoor advertising located within 660 feet of the nearest edge of a primary or interstate highway right-of-way (55-11-4).

This act also requires the licensing of junkyards located within 1,000 feet of the nearest edge of right-of-way of those types of highways. In addition, the commission can require the screening, relocation, removal or condemnation of the junkyard or the junk. Unlicensed junkyards can be removed or disposed of at the owner's expense (55-11-9).

Cultural Properties

The 1969 legislature enacted the Cultural Properties Act to regulate field archeology on privately owned lands and to preserve property of cultural worth in the state.

A cultural properties commission at the state level is given the power to pursue a number of alternatives with respect to cultural property on private lands which is deemed worthy of preservation. The commission may: A. provide technical assistance to the owner who is willing to restore, preserve and maintain the cultural property; B. acquire the property or an easement or any other right therein by gift or purchase; C. advise the county (or municipality) to zone the property as a historic area under the Historic District Act; D. advise the purchase or use of eminent domain by the county (or municipality) to obtain control of the property, in accordance with the Historic District Act; and E. have the state acquire the property under its own eminent domain powers (4-27-12).

Taxation

The Cultural Properties Act also encourages restoration and preservation of cultural properties by the private owner, through a tax exemption for that portion of the property registered as worthy of preservation (4-27-14). The exemption, being statutory, may have constitutional problems, unlike New Mexico's "Green Belt" law in the Property Tax Code (72-29-9).

The "Green Belt" provision is designed to protect the value of land used primarily for agricultural purposes. It does so by permitting a valuation based on production from such land rather than market value which may exist for surrounding lands having a different use. By permitting a different valuation, two specific land use goals may intentionally or unintentionally result: (1) the preservation of the productive status of agricultural land, and (2) retention of open space in an otherwise urban area.

The burden of demonstrating primary agricultural use is on the owner of the land, and he must produce evidence of bona fide agricultural use for the year preceding the year in which application is made to the county assessor for the "Green Belt" valuation.

Conclusion

At the beginning of this speech I said that there were a good many more laws on the books which affect land use planning than we had time to discuss.

Certainly our water law with its doctrine of prior appropriation as measured by beneficial use is a most powerful factor in determining the use of land and the planning with respect thereto. Any further comment on the importance of water to land use planning, to this or any other group in New Mexico, is unnecessary. Sufficient to say it could probably be (and probably has been) the key topic of an entire land use symposium.

Practically nothing has been said about the effect of laws on land use planning that create a variety and number of limited-purpose governments known as special districts or dependent districts. There can be little doubt that they do significantly affect the land use planning of a person whose lands are situated within and are subject to the authority of one of these districts. I speak here of such districts as irrigation, drainage, water and sanitation, conservancy, and wind erosion.

I do think that from this cursory survey we can conclude that New Mexico has a great number and variety of laws on the books which have implications for rural land use planning. Apart from some of the planning laws, however, most of them are in the nature of special controls or limitations upon the use of lands under certain circumstances. They do have a potential for affecting a rural land use plan. In other words, they pose considerations and perhaps obstacles which the land use planner must work with, around or through.

With respect to the planning laws themselves, we have seen that there is at least planning authority for all levels of government, even though

individual laws have varying degrees of comprehensiveness. Collectively they do not reflect an overall coordinated approach to land use planning. Despite this shortcoming, however, they do provide at least the basic tools and procedures for a land use planning program, especially at the regional level.

AN ASSESSMENT OF SOME ADVANTAGES AND DISADVANTAGES OF CURRENT TECHNIQUES IN LAND-USE PLANNING AND CONTROL

Presented By

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Almost three years ago at a conference on national land use policy sponsored by the Soil Conservation Society of America, I stated:

> "In the decade of the seventies, the regulation and control of the land use will be extended beyond anything we have experienced in this field to date. The signs of change are everywhere apparent -- if we will but read them. At the same time, the changes, which seem to me to be inevitable, will not occur without considerable controversy, conflict, and political struggle. At the center of the controversy, on the one hand, will be the owners of rural land -- farmers, ranchers, land developers, and speculators -- and, on the other hand, a more diverse, essentially urban-oriented group of conservationists, environmentalists, planners, and others who are responding to a need to preserve and restore outdoor landscapes and rural countrysides. Behind the emerging controversy are strong divergent values with respect to what constitutes a quality environment and a satisfying way of life. But to a large extent, the controversy will center on two very practical questions: (1) Can private land use be controlled for public benefits and purposes; and (2) Does the owner of open or rural land have a right to a monetary profit, not simply from the productivity of his land and his managerial inputs but from the unearned increments due to fortuitous location and population growth or movement (urbanization)?"

The quoted statement is as valid today as it was three years ago. Change continues to be a major aspect of land use policy, whether one examines the legislative situation, judicial decisions, or proposals of executive agencies at federal, state, and local levels. And land use planning and control policy remains a major issue of public controversy.

My topic today is concerned not so much with the grand picture of planning and land use control, but rather with assessing some current techniques in land use planning. I will summarize these rather briefly in the expectation that you will raise questions about those in which you are most interested.

Zoning and Subdivision Control

Zoning and subdivision control remain basic tools for land use plan implementation, but even the way in which these techniques are used has been changing. Zoning and subdivision control as well as local planning, were

urban problems include subdivision development where leap frogging and scatteration of subdivisions has been particularly apparent and is generally considered undesirable. Similarly, the growth of urban housing and business along highways, designated strip cities, are often considered as undesirable. Urban sprawl, which includes both scatteration and low density development, is often criticized particularly because of the social costs associated with it. Land development for urban purposes, of course, has housing as its primary objective. While most surveys still indicate that the American dream is the detached single family home surrounded with a substantial amount of land, present-day housing costs are said to exclude 80 percent of the population. It is in this context that mobile home development becomes an important factor.

In nonurban areas land use problems become considerably more complex. Of increasing concern in the last three or four years has been the question of preserving prime agricultural lands. This concern tends to be based upon a desire to protect the base for food production, but also on the desire to preserve agriculture as an effective way of life, and to keep job and other economic opportunities associated with farm enterprise. Preservation of open space and attractive rural landscapes benefit people living in rural areas, but most of the interest in the subject tends to be urban based. Similarly, the interest in the development of second homes and of recreation areas, as for skiing, tends also to be urban based, but the positive and negative impacts of these developments is felt in rural or nonurban communities.

Both the urban and the nonurban situations raise concerns for patterns and quality of development. In some places the developer is considered an essential member of the community but in others he is looked at with suspicion, particularly since rates of bankruptcy among certain kinds of developers increased dramatically in the last 18 months.

Problems of water and sanitary facilities may be involved in both urban and nonurban areas. In any case, a major element in the demand for more effective planning and land use control is the need for changes in response to growth. To put it another way, land use problems are most acute where growth rates are high, most growth representing expansion of urban populations requiring new housing and related public facilities, including shopping centers, utilities, roads, and schools.

Growth Management and Development Timing

"Growth Management" or "Development Timing" are becoming popular concepts for designating a variety of approaches to urban generated and urban related land use problems. Basically, proposals for growth management rests on an assumption that the rate, the density, and the location of residential growth in urban areas must be slowed down and directed in accordance with specifically identified community interests. Ideally, growth management should not be separated from a larger concern for development management since growth of a community is not unrelated to the economic opportunities which the community seems to offer. Most typically, however, growth management is defined simply in terms of regulating the conversion of rural lands to urban needs. Development management, on the other hand, addresses not only

products of urban growth in the 1920's. At that time, the U.S. Department of Commerce, under the leadership of its Secretary, Herbert Hoover, proposed, first, a model zoning law and, a year or two later, a model planning act. Because of the real estate boom of the 1920's, most states felt the need for land use controls, even as these needs are apparent today under similar land boom situation. The major difference, perhaps, was that in the 1920's zoning and planning were often sponsored by real estate interests. And the reason is quite apparent. Zoning, as initially conceived, was designed to organize the land market. It sought to protect individual economic interest in particular pieces of land from encroachment by incompatible uses which might depreciate value. Avoidances of nuisances and a desire for homogenous neighborhoods were primary goals.

The original model zoning act, adopted by most states, provided that the application of zoning ordinances was to be "in accordance with" the master or comprehensive plan. In theory, zoning was to be a technique for implementing goals and policy statements incorporated in the master or comprehensive plan. But in fact, zoning went ahead on its own, and the courts did not insist that application of zoning regulations be preceeded by a comprehensive plan. In retrospect, many commentators have expressed the view that this was a major deficiency in the approach to land use in the 1920's. Among other things, it contributed to a situation in which comprehensive plans were often not prepared, or if they were prepared, they were regarded as "pie-in-the-sky" dreams rather than basic policy statements to be implemented by local government decisions.

One of the changes which is occurring, and which is likely to affect all planning eventually, is the re-emphasis on the need for a comprehensive plan to preceed zoning and other land use controls. Another development, typified by the Oregon Fasano decision /Fasano v. Board of County Commissioners, 507 p.2d 23 (Ore. 1973)/, involves construing zoning changes as quasi-judicial with rather significant consequences for procedure, raising conflict of interest questions and burden of proof issues, as well as delimiting the kinds of facts to be presented to sustain a rezoning.

Perceptions of Land Use Problems

While those most vociferous in their opposition to <u>any</u> land use control may tend to interpret proposals for control as subversive of basic American traditions and institutions, I think we must recognize that many proposals for more extensive land use planning and control, and particularly proposals for involving innovative techniques, reflect widely held perceptions of many people as to the nature of a range of land use problems confronting our society. A brief summary of some of those perceived problems provides an appropriate background for considering the variety of proposals for dealing with them.

In looking at land use problems as well as solutions, it is probably useful to distinguish between those which are <u>urban related</u> or <u>urban instigated</u> and directly involve urbanization and urban growth and those which concern open spaces, preservation of agricultural land, and outdoor recreation.

the problems associated with conversion of rural land for urban needs but also questions of central cities, of older suburban areas, and of the larger region of which a community may be part. Development management seeks relationships to the larger universe of which a community is part, whereas growth management tends to be introvertive in its concern for the growth problems of a particular community, and as will be suggested later, herein may lie difficult constitutional problems.

Among factors leading to a consideration of growth management are situations in which development of new lands (subdivisions) exceeds administrative or fiscal capacity of the local government in the face of rising costs and associated lag in the provision of adequate services. Another strong rationale for growth management is the desire among some communities to protect a way of life, often to remain small and rural, rather than being gobbled up by a highly urbanized area. Sometimes a concern for environmental damage and for the relationship of growth to the natural environment may be reflected in growth management plans. Related to this latter concern is that focusing on the loss of productive lands in agriculture, forestry, and perhaps in minerals. Growth management may also be motivated by a desire to adjust growth to available water and energy supplies. In summary, some would say that growth management deals with the management of change, seeking to direct forces of change to achieve community interests and objectives.

Let me now turn to examine some of the developed techniques for growth management.

Moratoria on Development

In some situations where growth has clearly outrun the capacity of a community to manage it, a moratorium on housing starts or on new subdivisions has sometimes been declared. Most frequently this device is used where sanitary facilities lag behind development. In any case, the moratorium tends to be an emergency device, subject to rather severe legal limitations as to the period of time for which it may be utilized. Sometimes a moratorium on development may be declared as an interim control while planning is proceeding. Since the development of a master plan may take several years, and since that plan may shape development in the future, courts in some states have allowed moratoria to minimize the problem of subsequent nonconforming uses. Sometimes where a moratorium is used, provisions are included for ad hoc case-by-case consideration of development requests.

Phased Growth

Phased growth is a major characteristic of most growth management proposals. Its central focus is the desire to slow the rate of residential growth. Pressures for phased growth develop particularly in communities where growth rates have been exponential, often outrunning the fiscal and organizational ability of the community to provide the necessary infra structure. It should be noted, in passing, that often this inability reflects institutional and temporary deficiencies rather than basic long term problems. Too often racial prejudice, economic discrimination against low income classes, and

a hostility to newcomers has been involved. Sometimes proponents of phased growth seem to be saying "Now that I am here, no one else should be admitted." In this connection, for instance, it should be noted that from the point of view of the larger community (the region), the state or the nation, costs to provide education and most infra structure facilities will occur no matter where the families may live or the growth occurs, and so attempts to keep people out of a particular community may in fact reflect an unwillingness to absorb a "fair share" of national, state, or regional growth. The "fair share" problem is particularly related to so-called exclusionary zoning which will be discussed further below. Some communities have deliberately sought to retain their small-town character in the face of urbanization all around them. In some instances (e.g. Pennsylvania and New Jersey) courts have rejected this as a proper community goal.

Techniques for Controlling Growth

The most obvious technique is that of setting population limits, either in terms of a total, as was proposed for Boulder, Colorado, some years ago, or in terms of the number of new dwelling units to be permitted each year. Four important cases come to mind in this connection. One is the Ramapo Case in New York /Golden v. Planning Board of Ramapo, 20NY 2d 359, 295 N.E. 2d 291, 334 N.Y.S. 2d 138 (1972)/, another is the Petaluma Case in California /Const. Ind. Association v. City of Petaluma, 375 F. Supp 574 (1974); reversed on appeal, 9th Cir. (No citation)/, a third is the Mt. Laurel Case in New Jersey /Southern Burlington County NAACP v. Twp. of Mt. Laurel, 67 N.J. 151, 336 A.2d 713 (1975)/, and a fourth is the Sanbornton Case in New England /Steel Hill Development, Inc., v. Town of Sanbornton, 469 F. 2d 956 (1st Cir. 1972)/. Time permitting, each of these cases deserves a brief comment.

Exclusionary and Inclusionary Zoning

The courts have been particularly firm in deciding that land use controls which exclude what is called a "fair share" of poor and minority housing violate constitutional principles. At the same time, unless a community is itself deeply involved in the construction of housing, it can be difficult to develop inclusionary programs. It is in this context of exclusion, for example, that the effect of any kind of land use controls on the price of land must be considered. Since there is reason to believe that most controls have the effect of increasing the price of land, and thus may run counter to even a sincere interest to provide housing for low and moderate income groups.

Jurisdictional Limits

One of the most difficult problems for many communities arises from the fact they have no extraterritorial jurisdiction and are not able to influence what happens outside city limits except by means of first annexing an area. Annexation statutes vary from state to state. In some, the process is rather simple, but in others it can be very difficult. This means that responsibility for land use planning and control may fall on the next level of government, usually the county. But counties have authority to

only do those things which are authorized by state legislation, except in the few situations where county home rule may have been authorized. Not all states have given county governing bodies the full and necessary authority for effective land use control in the vicinity of urban communities. Moreover, from a political point of view, county governing bodies have different constituencies and are concerned with a different hierarchy of problems, so that they may often not be interested in confronting problems, so that they may often not be interested in confronting problems of urban growth in the same way that the cities are likely to.

Land Banking

In several Canadian provinces, in Australia, and in Sweden, "land banking" is an important adjunct of the planning and land use control process. In its simplest form, land banking simply means that government purchases land for later use in accordance with a long range master plan. When the land is ready to be used it may be leased or sold to private owners. In the meantime, however, the government has control of the land by virtue of its title and may rent it out for temporary uses. Several countries have adopted novel approaches to valuation of land to be put into the "land bank".

Development Rights

Two basic types of development rights are currently being discussed. The first type involves the purchase of development rights by a governmental unit, leaving the land owner with certain limited rights. Thus in Connecticut and Suffolk County, New York, it is presently being proposed that the state in the one case and the county in the other purchase all rights to development of certain lands, leaving only agricultural use rights in the hands of owners. Development rights thus are analogous to resulting in certain covenants running with the land. Similar approaches are being considered in New Jersey and Maryland. The major limitation of this approach to land use control is, of course, that of fiscal capacity. I have not seen any estimates of the possible cost of this technique, if it were to be used to preserve particular uses around the borders of major cities, but it is to be noted that the Connecticut proposal to preserve less than 16 percent of the area of the state involves an estimated cost of $500 million ($1,000 to $1,500 per acre) and in Suffolk County, the sponsors of the purchase program are talking in terms of $4,000 to $6,000 per acre for a County total of about $120,000,000.

An imaginative proposal has been made to establish <u>transferrable</u> development rights systems, which, it is thought, would involve little or no public funding, although in some proposals a residual public land banking function is recognized. To my knowledge, this approach has had very little experimental development, and it is not at all clear that it will work as proposed.

Federal Programs

This paper would not be complete if it did not recognize that some of the more drastic effects on land use may originate from environmental programs

concerned with energy, water, air, and other major resources. Both the Air Quality Act of 1970 and the Water Pollution Control Act Amendments of 1972 recognize that these two major environmental problems have their origins in land use patterns. A Federal Court has ruled that Section 208 "area-wide waste treatment plans" must be developed for the entire area of each state. Similarly, it has been charged that our inefficient use of land in the suburban areas of major cities accounts for the waste of substantial quantities of energy. Thus anyone considering trends in land use planning must take into account the way in which these federally dominated programs may influence state and local actions, which in turn may impinge on land use.

Preserving Agricultural Land and Open Spaces

Preservation of open spaces can be secured by a variety of acquisition techniques ranging from eminent domain and fee simple purchases through land banking, less than fee acquisition, leaseholds and compensable regulations. Direct regulation to preserve open space frequently will encounter the problem of taking without compensation. Subject to that constitutional limitation, however, ten common techniques have been identified as useful for open space preservation: (1) bonus and incentive zoning; (2) conditional zoning; (3) contract zoning; (4) density zoning; (5) environmental controls; (6) mandatory dedications; (7) official mapping; (8) PUD ordinances; (9) subdivision regulations; and (10) rural and urban service districts.

The recent emphasis on areas of critical state interest indicate that protection of such areas as floodplains, wetlands, coastal zone, and geologic and other hazard areas is probably within the scope of the general welfare and health and safety definitions of police power. This approach designating areas and activities of critical state interest, although fairly new, appears to be gaining support for accomplishing a wide range of land use objectives. Another approach that has been tried in a number of jurisdictions involves special taxation policies, primarily differential assessments or the taxing of the use value as against the market value of the land. Nine states have preferential assessment based on use value with no penalties if the uses are changed. Eighteen states have a kind of deferred taxation system with a kind of penalty or reachback tax assessed at the time use is changed from the favored use to some other use. And finally, several states have restrictive agreements whereby the land owner contracts to use his property in a particular way for a particular time (California and New York).

Although touted as very significant, studies of differential taxation systems seem to indicate that they have been less than impressively successful in preserving land for desired uses. Preservation of agricultural land, particularly prime land, is becoming a political issue of considerable importance stemming in part from the concern about world hunger and our capacity to meet our own needs for food and fiber. Three techniques have been important in the attempts to preserve prime agricultural land. One of these is large lot zoning and limitations on parcelizations, the latter related to subdivision controls.

A second approach is the designation of agricultural zones which often may include a contractual relationship between the land owner and the governmental unit. There is little evidence that this approach, if not supported by the purchase of development rights, goes very far in preserving prime agricultural land. Designating certain areas as agriculturally zoned looks good on maps, but the record indicates that as soon as pressure develops to allow a variance or to change the zoning, this usually is permitted. There are, in addition, some legal-constitutional questions as to the ability of a local government to restrict land to agriculture uses by the zoning technique.

The differential assessment approach, discussed above, is a third technique for preserving agriculture, but the record of results (e.g. in California) is less than impressive. In the West, a particular problem arises in connection with the preservation of irrigated land in agricultural use. The land itself or the water rights, indispensible to continued agricultural uses may be purchased. In either case, farming is ended. There is some reason for concern, moreover, that the loss of irrigated land has severe consequences for the region in which this loss occurs. In this connection, the taking of irrigation water for urban uses has been slowed down in Colorado by a recently enacted statute requiring a thorough analysis of alternatives and impacts by the local government seeking such water, with ultimate court approval of its action.

ECONOMIC IMPLICATIONS OF LAND-USE PLANNING FOR PRIVATELY OWNED RURAL LANDS

Presented By

Donald R. Levi

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Almost everyone has an opinion about land-use planning. While the basis of this opinion may border on ideological beliefs by some, quite often the basis is the perceived economic impact of land-use planning on an individual's land holdings.

At the outset it should be noted that land-use planning may have different effects on different rural lands. It may cause windfall gains or losses in value, or may be neutral in its effect. And these effects may be difficult to isolate on a particular tract, because they may also depend on an owner's personal business and estate planning objectives.

Land: Private Commodity and Public Resource

We start with the basic proposition that land is both a private commodity and a public resource. While there is public ownership of some land (34% of U.S. land is owned federally, 6% by state and local governments[1]) there are also public resource aspects of privately owned land. This consists of the bundle of rights retained by governments when private ownership was parceled out. These governmental rights may affect land-use control under five different powers and/or methods as follows:

Public Methods of Land-Use Control

(1) Public spending. Any level of government may spend money in an attempt to influence land-use patterns, either directly or indirectly. Examples include (1) credit facilities provided through the Farm Credit Administration which has encouraged agricultural production and, thus, land use, (2) local municipal spending on utilities (e.g., sewers) which in turn affects development patterns, and (3) VA and FHA insured loans, which encourage construction and purchases of single family residences. Since spending decisions such as these affect supply and demand for selected types of land susceptible to certain uses, they also affect the price (value) of land. While the interaction of supply and demand in the real estate market is simple in concept, many may not have recognized the potential and realized impact of public spending on land uses and value.

There is an additional aspect of the land-use impact of public spending programs. Since land is an input in the production of all products, spending programs which drive up the price of land also have the long-run impact of driving up product prices. The extent to which this occurs depends on the degree of intensiveness of land use required in the production process. Thus, increases in land prices likely have been important in driving up prices of new single family residences because land is used intensively in producing them. Since old homes are readily substitutable for new ones, the effect has been to also increase their value.

(2) Taxation. From a theoretical standpoint, taxation works in precisely the opposite fashion from government spending. Tax policy also has been used to control and provide land use direction. An example is preferential ad valorem tax assessments now accorded agricultural land in many states. (Call Keith Austin re: New Mexico law on this matter.)

Since taxes affect business profits, in general property taxes are capitalized negatively into land values. For example, a North Carolina study[2] suggests a 10% increase in property taxes would lower farmland values by $7.40 per acre.

Preferential farmland taxation may also have the effect of decreasing the supply of land available for development or other purposes, especially where the law provides for substantial "rollback" tax penalties. This may in turn result in an increase in price in land held for, and susceptible of development. Thus, the purchasers or consumers of development land may bear a large part of the cost of preferential ad valorem taxation.

(3) Proprietary power. A unit of government can exercise its proprietary power and enter the private land market in the same manner as any other buyer. Their justification for exercising this power is to promote the general welfare of their citizenry. Such proprietary purchases may affect the use of the tract purchased, as well as the uses of nearby land.

(4) Eminent domain. Another well-known power of government is to take private property for public use, accompanied by just compensation. This also directly affects the use of the land taken via condemnation, and in many instances indirectly affects uses and values of adjacent and nearby tracts. A classic example is the land-use patterns which have developed along major highways. Thus, it should be recognized that public agencies such as highway departments historically have been major land-use "planners".

Under eminent domain, either full title or some part of title may be acquired. An example of the latter is an easement. Traditionally easements have involved such things as access or drainage; a relatively modern development is the acquisition of scenic easements. Basically, they leave land in private ownership, but the scenic easement helps assure that uses will not arise which are deemed incompatible with other nearby uses (e.g., a public park). The advantages of the easement approach are basically threefold: (1) they are cheaper to acquire than full ownership,

(2) relocation of current residents is avoided, and (3) land is not removed from production.

(5) Police power. The police power is used to justify legislation which has the purpose of protecting or furthering public health, safety, morals or welfare. It is the basis for three major methods of land-use control -- zoning, subdivision regulations, and building codes. The argued legal fiction is that these directions and restrictions on land-use do not constitute a compensable "taking" of real property rights, because they amount to a further definition (or redefinition) of rights in land originally retained by federal and state government (when land was initially transferred to private owners). But it is unquestioned that land-use controls such as zoning sometimes do cause windfall gains and losses which substantially affect property values in many cases.

Zoning initially arose because of a belief that incompatible land uses in sum may have more detrimental than beneficial effects on land values. A tool for orderly development, zoning ordinances are also alleged to eliminate much speculation in land. But, in some instances, this elimination of economic speculation may have resulted in the development of political speculation, as the ability to influence zoning decisions may have a very real impact in land values for specific tracts.

Given the assigned topic, a relevant question to ask is, "What is the effect of zoning on rural land uses and values?" This is difficult to answer with certainty.

Zoning would seem to have strongest justification in those areas where land uses are changing, and where land use conflicts thus arise. This is likely not the case in much of rural New Mexico, so in those areas there may be more costs than benefits to zoning.

Zoning, though by its nature always a crude tool at best, is most effective in urban and rural-urban fringe areas, as well as other areas undergoing rapid changes in land uses (e.g., rural recreational subdivisions around lakes, etc.).

Zoning, subdivision regulations, and building codes are all alleged by some to have been used in some instances in a deliberate attempt to exclude certain classes of people from specific areas.

Private Land Use Control Methods

The primary private method of affecting land use is under the nuisance law. A nuisance exists any time one unreasonably interferes with another's enjoyment of his property, and may involve air, water, solid waste and/or noise pollution. Nuisance based lawsuits usually are initiated by nearby residents. Both the nuisance causing activity and its abatement may have substantial effects on land values.

To illustrate, economics of size have encouraged the development of large cattle feedlots. While this increased size has increased profits to many

Land Use Categories

Recent Texas research sheds some light on what land uses might be affected by a land-use regulatory scheme. This research was conducted in Chambers County (near Houston). Professor John Mixon of the Bates College of Law, University of Houston, provided the legal input for this study. Using a 160-acre grid approach in plugging in information from 32 different sources, Professor Mixon developed four different classes of land use problems.

Class One Lands

Class One basically embodies consumer protection-type land-use regulations. It involves those geographical areas that lie in the floodplains, those that have serious geological faulting problems, and those that have serious land subsidence problems. The importance of adding the latter area, of course, is simply the fact that as land subsides it becomes more susceptible to flooding.

On land classified as Class One by Professor Mixon, it is suggested that the land use regulators likely would require builders to meet certain performance standards before they would be permitted to build. The idea here is quite similar to the 100-year floodplain zoning concept discussed previously. That is, for example, one might be required to floodproof the bottom of his house and put the living level above the highwater line. It is quite likely that the value of Class One lands would be lower than that of surrounding lands, simply because readily available maps would denote these lands as Class One in nature. The requirement of meeting performance standards would raise construction costs and thereby make these lands relatively less attractive for building purposes. Thus, land values in these areas likely would either fall or at least not be expected to rise as rapidly as those in other areas.

If land is Class One in nature, would its owners be compensated for any decrease in value resulting from such classification? Compensation likely would not be provided to these owners because of the previously set out judicial interpretation of the fifth and 14th amendments.

Class Two Lands

Professor Mixon's Class Two lands also have three types of land uses listed: (1) aquifer recharge problems, (2) marshlands, and (3) fish and oysters. The aquifer recharge problem results primarily from the fact that the next county north -- Montgomery County -- actually recharges the aquifer underlying Chambers County. Accordingly, if Montgomery County were to pave over the recharge areas, it well could have the effect of causing subsidence in Chambers County. It is for this reason that aquifer recharge problems are considered legitimate land use problems.

The marshlands problem, of course, is important because the wetlands of Texas are alleged to provide 70% of the food supply for the marine life in the Gulf. The fish and oyster industry is also important to Texas and may be affected significantly by what happens up the Trinity River.

feedlot operators, air and water pollution generated by the operation may have inflicted substantial costs on downwind and downstream neighbors. These costs may come in several forms, such as undesirable living conditions, livestock losses, and decreases in land values. These are costs suffered by others, so generally the feedlot operator may not have considered them when contemplating expansion. If he is required to pay these costs as "actual damages" in a nuisance-based lawsuit, the effect is to internalize them into business expansion decisions. Thus, the nuisance law has become a privately initiated restriction on land use in some instances and areas.

Proposed Federal Land Use Legislation

From the standpoint of people and businesses related to the real estate industry, one of the most controversial acts proposed in 1974 was the National Land Use Policy and Planning Assistance Act (NLUPA). Both Senator Jackson and Representative Udall have revised their versions of this proposed act and introduced them again in 1975.

Then President Nixon originally approved the 1974 versions of the Jackson and Udall bills, but later withdrew approval because of criticism that the act would impose federal planning on the states.

The NLUPA of 1974 closely paralleled the Model Land Development Act (developed by the American Law Institute). It said essentially that roughly 90% of all land use decisions still would have been made at the local level as they traditionally have been made. It said that the other 10% of land use decisions would have been made at the state level (or the federal level if the states did not act) because they were of "greater than local concern". The concept of what constituted "greater than local concern" was the real key to the scope of the 1974 bills.

The 1975 bills sought greater political palatability by deleting the 1974 proposals for land use in critical areas of "more than state concern" to be regulated by the federal government. Likewise, the 1975 versions no longer provide for land use decisions of "greater than local concern" (i.e., regional concern) to be made at the state level. The basic objective of both bills is to provide the states with both incentives and policy directions in developing state land use programs.

The 1974 versions of the NLUPA had some rather serious sanctions in them. They said essentially that if states did not comply with the NLUPA they would lose respectively 7%, 14%, 21%, etc., of certain federal funds in successive years after the deadline for approval of all state plans. These sanctions were distasteful to many people at the state level, and the presence of these sanctions may have been a reason that the NLUPA received some "bad press". These sanctions have been removed from the 1975 Jackson and Udall bills. It was unfortunate that they were placed in the 1974 bills, because, politically, it appeared that the federal government was trying to shove something down the states' throats. The 1975 bills may be more politically palatable in that the aforementioned sanctions have been eliminated from them.

Professor Mixon refers to Class Two lands as involving "nuisance-type" land uses; i.e., if they are permitted to occur, an unreasonable interference with the rights of others may result. This is quite similar to the concept of nuisance law set out previously in this article.

A logical question we can ask is simply: "What if the owner of Class Two lands cannot use them for any profitable purpose other than paving them over and developing a shopping center?" If we require him to keep his wetlands as wetlands, should he be compensated for the difference in value of the land for these two uses? There are cases in Wisconsin that say "no" to the compensation question.

Logically, performance standards also might be developed for some Class Two uses in which people were permitted to proceed with their preferred use as long as such standards were met. For example, a builder might be required to use porous asphalt in an aquifer recharge area, rather than concrete curbs and guttering.

Class Three Lands

As classified by Professor Mixon, Class Three lands are those lands on which nearly extinct wildlife resides, and also those lands that are of archaeological or historic significance. It is almost impossible to employ the concept of performance standards to land use problems in this classification, so perhaps compensation should be paid to current landowners who are not permitted to shift Class Three lands to new uses. The rapidly developing concept of "development rights transfer" also might be applied here.

Class Four Lands

Under Professor Mixon's scheme, Class Four lands are strictly of an agricultural nature. They include only agricultural lands that are extremely productive. Here the basic idea is that if we believe food production is extremely important and will be in the future, then we should keep these lands in agricultural uses. Both the Jackson and Udall 1975 bills have added provisions providing for protection of agricultural lands.

Concluding Comments

Whether we like it or not, land-use planning and land-use regulation are here to stay. The question is no longer whether we will have such legislation, but rather what form our regulations ultimately will take. In some cases, particularly coastal zone management, an opportunity exists to have an input in the (geographical) scope of land-use regulations.

Land-use planning and regulations will affect many tracts of land -- particularly those near expanding population centers. The likely effect of existing and projected future regulations on land-use patterns is tenuous at best, but may be somewhat easier than projecting the effect of such land-use regulations on value -- particularly if we are seeking the magnitude of changes in value. In theory at least, recent and proposed

direct and indirect land-use regulations represent an attempt to internalize those external factors and effects that result in unwarranted transfers of income and/or wealth among persons and products, as well as over time.

It well may be that land-use planning and regulations will have minimal effect on land located in out-migration areas for a considerable number of years. In these areas the market is still a fairly efficient mechanism for allocating land among competing uses.

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[1] "Our Land and Water Resources, Current and Prospective Supplies and Uses," USDA, ERS Misc. Pub. No. 1290, May 1974.

[2] Pasour, E.C., "Real Property Taxes and Farm Estate Values: Incidence and Implications," American Journal of Agricultural Economics, p. 549, November 1973.

RESPONSE: SOCIAL AND ENVIRONMENT IMPLICATIONS

Presented By

James Colegrove

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We've been hearing about land use in regard to private rural lands. I will talk about some private rural lands which have been changed to an urban area and what some of the benefits and some of the problems are.

Basically, the land in question is now known as Rio Rancho. In this discussion will be some mention of adjoining lands, including the valley in the community of Corrales.

Rio Rancho is located on the north end of what Albuquerquans call the West Mesa. It is in rural Sandoval County.

The original purchase of land consisted of the Koontz Ranch--about 55,000 acres. This land had been severely overgrazed by sheep in the last century and was pretty well beat out by the early years of this century when the ranch was switched to cattle.

Sale of half-acre lots at Rio Rancho started in 1961. This generated the cash flow to start actual development several years later.

Since that time another 35,000 acres has been added to the original purchase. Development at this time is located on 5,400 acres in the southeast corner of the property, above the village of Corrales and adjoining the Bernalillo County line.

At this time there are nearly 6,000 persons at Rio Rancho, most of them from out of state. In addition to nearly 2,000 single family homes there are about 260 condominium units in two complexes.... There are 113 units in the retirement center of the National Secretaries Association, a mobile home park developed by another firm on land we sold....and work has started on what will be a 2 million dollar mother house for a province of an international order of Roman Catholic nuns.

To help assure employment, Rio Rancho has a successful industrial park with a dozen manufacturing plants and other businesses. To provide recreation for the citizens, we have a golf course, country club, tennis courts, swimming pools, two recreational centers, little league fields and so on. There is a shopping center with a full-service supermarket, a drug store, post office, theater and other retail outlets.

Water is provided through our own utility system. Sewage I will discuss later.

The success of this development has been based upon the appeal of small town living with the conveniences of a major city next door.

Most of our customers come from the metropolitan areas--people wanting away from the congestion and confusion of the cities. They are generally middle aged and over, with some sort of income or savings. About 50 per cent of them put down at least half of the price when they purchase a home. Average savings account is about $11,000.

The development of this satellite community has meant much to the area. Among the advantages are these:

Establishment of the community of Rio Rancho has greatly enhanced the tax structure of what was a poor, rural New Mexico county. Sandoval is about in the middle of New Mexico's counties when it comes to size. Yet it is larger than the states of Delaware and Rhode Island put together. But in 1970 it had only about 17,000 people, as compared to a million and a half in those two states.

The development of Rio Rancho, plus the growth of neighboring Corrales, makes Sandoval the fastest growing county in New Mexico, percentagewise. Nearly half of the taxes now paid in Sandoval County are paid by the developer of Rio Rancho and its residents.

Development of the community has improved land values in several ways. Bringing 6,000 people to a ranch that previously supported only a relatively few head of cattle has had varied effects. For instance, it has caused better roads to be built into the area, thus improving land values nearby. A large shopping center recently opened at Coors and Corrales Road--partially justified by those 6,000 persons at Rio Rancho.

The enlarged tax base, as well as increased enrollment, helped justify a new high school to serve the area as well as a new elementary school at Rio Rancho.

Many of the employees of the industrial park come from surrounding communities, offsetting, we feel, the impact of those of our residents who have employment off property.

Among the problems are some dealing with land use.

When AMREP Corp. purchased the ranch, it immediately set about drawing up a master plan. Outside consultants did the work--designating what would be single family, multi-family or commercial areas. They located core areas, designated parks and school grounds. By law we had to carve roads throughout the property, something which has been called sight pollution.

Located as we are on the mesa, actual pollution would be minimal at worst. In the early years of development, sewage was handled with septic tanks. They were on half-acre lots and with the water table more than a hundred and fifty feet below, they were and still are perfectly adequate.

However, as we went into higher density development--the condos, and single families on quarter-acre lots--it was felt a treatment plant was needed. The best location was on the lowest point in the developed area--just above the village of Corrales. That could create odor problems. So we put in what has been termed the best sewage treatment plant in New Mexico. There are no odors and more than 90 per cent of the effluent is reclaimed as water clean enough to be used for irrigation and in which fish thrive.

I point this out because a less efficient plant--which we could have built--would have caused an adverse effect upon our neighbors.

A serious problem caused by the lack of land use planning has come up in regard to water run-off.

The mesa is in effect a table tilted up on the west side, lower on the east with the valley below.

In our master planning, we took into account the fact that roads and streets, driveways, parking lots and roofs would act as collectors of water. We have spent some $400,000 in flood control structures. But what we could do has been greatly restricted by laws.

At the same time as we were growing, the Corrales area below us also was growing. Many New Mexicans liked the charm of the little rural Spanish village. The result is much of the farming lands have been carved up into homesites.

Corrales lies in low land--probably an old yazoo--to the west of the river. Years ago the Corrales Main Ditch was dug between the escarpment and the village. From the Corrales Main, the land rises gently to the foot of the escarpment.

It is perfectly good land, but is in the path of the run-off and some of the lands to the immediate west of the Corrales Main are natural ponding areas in time of heavy rains.

Small subdividers and individuals have built homes in this area. Streets were carved in straight lines, right up to the base of the bluffs.

You can see the problem. Corrales has now been incorporated and a planning and zoning commission is controlling building. Most of that development took place before the village incorporated, however.

This has created hard feelings between the two communities. AMREP does not impound water. We can hold excess waters, but--theoretically --we must permit the normal run-off.

This is a problem which has existed for years. And there is enough watershed area on the escarpment to cause problems if we did impound all the run-off. The fact is that with normal flow from the mesa along with water falling on the escarpment there would be trouble if Rio Rancho did not exist. But it is hard to tell that to a home owner whose floors are covered with water.

Some years ago the Corrales area formed the Corrales Watershed District in an effort to solve these problems with the help of federal funding and the technical advice of the Soil Conservation Service. Efforts were made recently to enlarge the district to cover Rio Rancho. However, now we learn that the ratio of agricultural lands to urban lands has changed so much, we may not be eligible for this program. If this is true, some mighty expensive run-off protection work must be done at the expense of what is still a relatively small group of land owners.

I cannot help but think that serious land use planning years ago would have avoided this predicament.

Another problem which has arisen at Rio Rancho is the apparent resistance by our residents to govern themselves. Instead they turn to the developer to be mayor, town council, father confessor and solver of all problems. But we are merely a business. The only authority we have is what is covered in the protective covenants each purchaser signs. We can't pick up stray dogs, solve neighbors' quarrels, arrest speeders or punish noisy kids.

The reason for the reluctance to govern seems to come from the fact AMREP has been paying for everything and the residents feel they--through added taxes--will have to pay for many of these services in the future.

AMREP should not be in the business of running a town. Added to this is the galling knowledge that many thousands of dollars we pay in certain taxes could be returned to the community if it were incorporated. One of the sad aspects of this is that among our retired citizens are specialists in almost every phase of operation of government. They could put together one of the finest city administrations in New Mexico.

That briefly is the story of one chunk of rural lands which has undergone extensive change in the past dozen years. Land on which 80 million dollars in improvements have been placed.

The change has generally been good for New Mexico. It has provided homes for thousands of people without costing a city like Albuquerque one cent, or without taking valuable agricultural land out of production. It has helped an economically depressed county with its tax base. And it has demonstrated what advance planning for the use of the land has accomplished.

FOR THE BEST INTEREST OF NEW MEXICO, WHO SHOULD BE INVOLVED IN THE DECISION-MAKING ABOUT THE CHANGING USES OF PRIVATELY-OWNED RURAL LANDS?

Presented By

E.P. Harvey

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I think the issue, and the most misunderstood issue, is the question of planning. It's been brought out we all plan. You have to plan or you won't exist. But what isn't fully understood is that there is a very natural, compelling human temptation to carry out your plans no matter what. An old preacher told me one time, just before he died (he died of heartbreak), that he wanted to build a new church. So he got himself some plans, then he started trying to raise the money to build the church. But things being as they are, the cost of the plans was always so far ahead of the money he could raise that he never got his church. You want to keep that in mind. Plans need to be executed or there is no point in the planning. You have to keep that in mind; and planning is many things. Public planning is a form of compulsion to make someone else do what you want them to do, right or wrong. Private planning is for your own private purposes, usually for the dirty word -- profit.

Now profit is an interesting thing. Think about it a while. A lot of you work for salary, strictly on salary. You accept a salary or pay that will keep body and soul together in the manner to which you would like to become accustomed -- I presume, most of us think that. But that you have left over after you buy beans, a roof and clothing is profit. That's what you go to the movie on, that's what you go out to dinner on, that's what you buy your wife a new dress with. That's that dirty profit.

Another thing we should talk about is that the actions of others very frequently influences the value of land. But interestingly enough, the man who is wise enough to acquire land in a place where the actions of others will enhance the value will be successful. I say wise enough, sometimes its blind luck, but the people who have a feel, a touch, education, whatever it is, the magic enabling them to predict what other people will do and who put their money where their mouth is and sit on it awhile -- it pays off. This happens to a lot of them like us who manage to get it out in the middle of nowhere where nobody wants it.

Now, to illustrate this planning bit, planning is generally an exercise in philosophy. It's a crystal ball thing. What are other people going to do. What will the economics do? Why will people want to live one place as

opposed to another. All these things interact. In El Paso there was a man named Horst Shreck. Horst was an old Swiss veterinarian, a very wise man. About 50 years ago, as an exercise in philosophy, he drew up a plan for the city of El Paso. They dug the thing out of the archives about 10 years ago, and amazingly enough, El Paso had grown and developed in an exact duplicate of Horst Shreck's plan. This was a crystal ball, this was wisdom, this was prediction. Nobody made anybody do this. It just happened to work out that way. He was a logical man.

Now, in this illustration of planning and zoning, the illustration of Houston, there are many techniques for this. Houston uses restrictive covenants. Many areas use restrictive covenants. In fact, in many cities the restrictive covenant is used, then the zoning only matches the covenant. Usually the restrictions are greater than the zoning might be, the compulsion might be. Actually, zoning works out to follow a result of logic. It's after the fact. People are doing something anyway so they zone it to protect what people have already done. Property rights, if you like, human rights, they can prevent nuisances, things of this sort. But, it's after the fact. not before the fact because generally there isn't one man in ten million who is competent or qualified or capable to predict on any sort of a long-term basis what other people will do in a given community, because they don't know. Now, when you go into governmental planning as with Russia, and China, why are we shipping them grain? I have heard it stated, and I think some of our agriculture people here can verify this, something like 90% of the fresh food that is eaten in Russia is produced on small tracts that they let the peasantry cultivate when they are off duty from their communal activities. About 10% of the land that is farmed in Russia produces the fresh food that they eat in Russia. The rest of it, under the state's system, we're shipping a substantial amount of it to them. Take India and China, same thing. When you do away with the individual, personal initiative to produce, the profit motive, if you like, you get in trouble real fast.

Now, in speaking of planning and zoning, it's human nature, I think in a lot of people to want to tell someone else what to do, and then try to make them do it. They get annoyed and irritated and they want someone else to do it. In thinking of this compulsion, those of us involved in agriculture, we have our own problems. They're very distinct and they are unique. I'll go into them in just a moment. But, I think as an interesting thing here, I'd like by a show of hands in this audience to know how many of us are owners or operators of agricultural land. Oh, about 25%, possibly, The rest of you, I presume, are either agency people, governmental people, in the planning business, or urban people. Let's talk about what a rancher and a farmer has to do with it. It's the history in this country in agriculture that the present generation owes more on the land than the preceding generation paid for it and it's getting worse. It's becoming a multiple now, it's not just a little more, it's a multiple more. What this comes down to, and there's a reason for it, out of a strictly agricultural operation, raising cotton, lettuce, running cattle, it's possible to pay current out-of-pocket expenses in the long pull. That's just about all. Now the only payday in the long pull that rancher gets is the payday his children may get from selling the land at an increased value. What he has keeps body and soul together while

he is operating, and he gets along but that's just about all. But his land increases in value and it has, due to inflation, many, many factors. But as this value increases, he can if he so wishes, have his windfall, if you want to call it that, at the end for his family. He usually never sees it in his own generation. Now if you cause land to remain in agriculture willy-nilly remember, this is a plan and this is compulsory; remember where the political power is; it's in the city. We don't have any votes. There are too many of us. We're too efficient. We got rid of all of our voting power because machines can't vote; we had to replace our labor. Okay, when you do this, the first step is that we have to borrow money all the time. Ask any banker. He'll tell you that a crop and chattel mortgage isn't worth very much. Ask any banker. He'll tell you that a crop and chattel mortgage isn't worth very much. You have to buy, as one man says. We just bought a $30,0000 combine at 6% and I know he didn't pay 6%. It will take him more than 12 years to pay it off and in that time he will have paid $60,000 out. That banker knows he's got to get $60,000 out of that guy's hide in the next twelve years. He can't do that and the combine isn't worth the mortgage on it, so the man has to have some other asset to back up this mortgage to borrow the money. The asset is the land.

Let me give you another example, the greenbelt law. I know this is an actual case. In the suburbs of a nearby city, a man farmed for some 50 years, had a good farm, made a living, but as things went on he started not quite paying out each year; and the only reason the bank stayed with him was because he had very desirable land in the suburbs, so the losses in the operation increased the note on his land. He died and his executor said, "We'll pay off everything and get everything going." The subdivider wanted to buy his farm. Well, that was all well and good except the city council said, "Sorry about that, this is going to be greenbelt." The answer was the farm would not sell for enough money under those conditions to even pay off the note against the bank. What that comes down to is, you city people borrow money from banks too. If the bank had to have taken that loss, they would have recovered it out of somebody's hide, because they have to meet the accounts of their depositors. Your interest rate would have gone up to recover that loss. As it so happened, they got some common sense in that thing and the greenbelt thing was removed. You cannot force land to remain in agriculture; there is no way that this can be done. If you do attempt it, here's what happens. The farmer and rancher cannot stay in business or will not because there isn't the incentive unless you pay him more. The price of your food and fiber, your agricultural production must go up to cover it. And that is all it is. You can either pay him in an increased land value or you can pay him in higher prices. Take your pick. There is no free lunch.

Now, who should be involved in this? The agricultural community itself is probably the prime source of informational knowledge as to the results of what should be done for the planning or zoning of agricultural lands. It must be very, very flexible and very versatile. Who knows whether they are going to find oil under somebody's place, geothermal steam, or some company from the east decides that that is an ideal plant site to make something exotic that they cannot put in a populated area. All sorts of things like that happen. You have to be able to respond to these changes.

The counties themselves have to be involved because the men said they have to provide police protection; they have to provide certain reasonable rules and regulations to protect the neighborhood or the community agains disastrous, unregulated growth. Now remember something else, your urban people largely are the problem of the rural community. They are the creation of the problem. If you could put a chain link fence around Albuquerque, the ranchers nearby wouldn't need half the roads, they wouldn't need half the police protection, their insurance rates would go down immensely, vandalism and theft, carelessness, all sorts of things, nor would they have to have as much liability insurance. All of these things. So you've got to remember when you say city or urban people are carrying an undue load or tax load for the rural area, they probably cause the tax load in the first place of the proliferation of the tax load.

Your federal people have no expertise or abilities in these matters. They would like to think they do, but they don't. I think John Bigbee pointed that out very nicely yesterday when he mentioned the federal management of the public lands. He was speaking of BLM lands. It might have been a misunderstanding, but BLM cannot collect in fees what it costs them to administer it. When the Taylor Act was written, it was considered to lock the fees to the cost of administration and some wise men like A.D. Brownfield looked at that and saw down the road and said the cost of administration will always increase beyond any reason because it's controlled by a bureaucracy. So, therefore, there is no way that the producer could hope to keep up his payments with the cost of administering it. There's no top limit on the cost of administration.

You might think along this same line, what is the public's business is usually nobody's business. You can look at the horrible examples of Hitler's Germany. That was a socialistic state, pure socialism, advertised as such. He said, "Let the stockholders keep their dividends and let the bondholders keep their interest. We will control the business." Well, that caused a big break between him and his communist friends in Russia and was possibly an idealogical reason for Russia's attack on Germany. He said, "Don't make political waves. Let them retain their private ownership. We'll just control what they do." The point in this is here. I would far rather have the power to tax land and control its use. I certainly don't want to own it because I have the power to control its use and to tax it. I have everything there is right there. Every aspect of ownership, I just don't own it. Now, you say to agriculture, we're going to tax you and we're going to control what you do; how are you going to get that guy to farm? He isn't going to do it. This is the flaw of the socialistic or the communistic idea. There's not much difference in them really. They say that the mass of population has the right to say what the rest of the world does. Well, if they do have that right, then I hope you are prepared to live with the consequences. The nations that are trying it and have tried it in history aren't very successful, and we here are a pretty good example. Sure, the dollar controls the profit motive, but it has many constraints and it faces many realities and there are political constraints. Remember, before you get too eager to tell your rural people what they're going to do, you better think about the consequences.

WHO SHOULD BE MAKING DECISIONS ABOUT PRIVATE RURAL LANDS?

Presented By

Graciela Olivarez

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To gain perspective in our decision-making, let's examine the status of the land in the past. Originally, men did not make personal claim to the land. When man first entered New Mexico, he used the bounty of the land and claimed certain areas to be his territory. The territory was, no doubt, flexible and varied with an abundance of game and plant life. As he became more sophisticated and increased in numbers, his territories became more complex. With domestication of animals and agriculture, he needed grazing lands, water, and fertile soil. Some men became more sedentary and lived in complex social units such as pueblos. Here intensive use of land began and the success of the pueblo was dependent on how well the land was managed and how well land use decisions were made.

Western civilization moved into the State in the late 1500's. The social units became more complex, as did the use of land. At this time a new idea was introduced--that of private land ownership. The land in New Mexico became a commodity that could be bought and sold on the market. But the technological level was limited, and man's impact on the land was critical only near the rivers and limited urban centers. Then in the mid 1800's, the western push began and more resources were required to sustain a growing nation. Land was one of its major resources. When the U. S. Government took over, all land not private became public domain. This land was used as an incentive to attract people and industry. Homesteads were allocated in 160 acre lots. Railroads were enticed to move west by being provided free right-of-way and lands for additional income. Cattle barons controlled millions of acres, and cattle grazed by the hundreds of thousands. As the twentieth century was born, many acres were overgrazed, and the great herds dwindled. But the drilled well was being used more and more, and smaller ranch units could sustain themselves. Farmers began turning under the grasslands and extending their irrigated acreage by sophisticated irrigation systems.

By this time, man was definitely impacting the land resource and his numbers were growing. Perhaps his greatest limiting factor was the availability of water. Farming, grazing, mining, and commerce would all be regulated by the amount of water available.

From this historic sketch we can see that the land was first God's own, then was used by man for sustenance by its bounty. Most recently, man has been sustained through its use as a commodity.

Who actually makes land use decisions on private lands today? If we look at our New Mexico experience most private ownership is under agricultural use, then perhaps we should look at our agricultural programs to see how decisions are made there. From the outset we see the federal government plays a very significant role. This role began with the creation of the Department of Agriculture in 1862 during the heyday of laissez-faire. It was not until after the First World War that the farm problem received its due attention from the federal government. The three major problems of agriculture were unstable income, poverty among the farm population, and surplus. To combat these problems, many programs were implemented, one of which was the Agricultural Adjustment Act of 1933. This program initiated price support and production control over certain crops and livestock products. This indeed was a program that was making decisions of great magnitude for the private rural land owner.

But surplus continued to grow and with it came new programs such as the soil bank, the Emergency Feed Grains Program, the Cropland Adjustment Program, and so on. Other programs which influenced farm decision-making were the Cooperative Extension Service, the Soil Conservation Service, and the Farmers Home Administration. All of this is to say that the federal government plays a major role in land use decision-making on private lands.

All of this concern has the welfare of the farmer and the county at heart. We all benefit from continued crop production, conservation treatment of eroded lands, control of noxious plants, salinity control, drainage, and general soil rehabilitation.

On the other hand, there are other than agricultural concerns when it comes to making private land use decisions. For example: when people develop flood plains and eventually are flooded out, they request disaster assistance from governmental entities. Upon receipt of assistance, [illegible] rebuild again in those same flood plains and the problem reoccurs. To o[illegible]this expenditure of public funds, many states are limiting growth [illegible] flood plains by zoning and ordinances. Similarly we have environmental controls over the discharge of air and water emissions and the disposal of solid waste. All of these regulations of the private land owner are created in the public good to protect our health and welfare.

As mentioned before, water is a prime factor in the development and growth of New Mexico. It is also a resource with many controls. All surface waters are considered appropriated within the State, and groundwater is controlled by declared underground water basins in major use sectors. Depending then on the availability of water rights, a piece of land can be limited in its use by regulations of the State. This regulation is necessary to ensure an equitable share of the water resource to many people, and to maintain the prior right of those wh[illegible] first developed the water and land resource.

The many irrigation ditch systems with their governing boards are another example of existing land use decision-making. A land owner, on such a ditch,

is regulated in the number of acres he can irrigate, how much water he can use, and when he can use the water allocated to him.

The point I'm trying to make here is that rural private lands presently are heavily influenced by federal, state, and local governments decision-making. Most of these programs and regulations are prompted by constituents requesting assistance by their political representatives. Other regulations, particularly environmental, are mandated for the protection of public health and welfare.

If we are content in our definition of what private rural lands are and who presently makes or influences decisions regarding those lands, let us look at some of the problems that are presently facing us.

One of the most well known is the large scale subdivision. Huge pieces of land are carved out of the countryside, roads graded, lots staked and parcels sold off to hundreds of buyers, most of them out-of-state. If development is carried out, the new land owners require education facilities, water, sewer, electricity, fuel, health facilities, and police protection. All of these demands may fall on the nearest local government having jurisdiction. Most of these governments cannot provide the services, let alone the expense of sending out hundreds of tax notices on vacant lots owned by absentee landlords.

Another problem is the loss of prime agricultural land. In many areas of the State, acre after acre of fertile irrigated lands are being consumed by urban sprawl. Once developed with houses, shopping centers, and commercial districts, these lands are almost impossible to reclaim. Not only is this loss changing the local life style, and rural way of life, but it jeopardizes the future. We will need all possible land resources to provide food and fiber for our future generations.

We are also losing historic and archaeological values. As many rural land developments take place, sites are physically destroyed or opened to attack by vandals and treasure hunters. Each time this happens we lose another link to understanding the past and the enrichment of our cultural heritage.

A significant problem in dealing with rural private lands is that of development on environmentally hazardous areas. Examples are flood plains, wildfire areas, mud and land slide areas, fault zones or earthquake hazards. Others include poor soil conditions which result in septic tank limitations, poor foundation support, high erosion potential, and areas where excessive slope increases building costs or enhances the danger potential of previously mentioned hazard areas.

Anyone of these hazards can cost the taxpayer directly or through public expenditure. To identify the danger and to take steps to prevent public and private loss becomes the responsibility of the land owner and the government.

We can see many problems exist within the State and that there will be a better life for all of us if we can identify and solve them. We must also realize that many problems exist of which we are unaware. The planning process is a tool which helps us to find and solve these problems.

Finally, we come to the question, who should make decisions regarding use of private rural lands? The answer to this question is the land owner himself. The land owner has a responsibility to his own welfare and to that of his neighbors and fellow countrymen. But as we have seen in past discussion, the land owner has gone into mutual agreements with other land owners to assure a supply of water and cooperative labor force to maintain the water system. He has demanded use of public money to alleviate disasters either of fire, flood plain, crop loss or instability of income. Furthermore, many private land owners have not lived up to the public responsibility required of them. Thousands of acres were lost to overgrazing, erosion, and simple abuse of the land. Large companies, as private land owners, have developed lands which could have had a better use and have exploited resources to the point that they endanger the resources of their neighbors. Erosion, beginning on one piece of land because of clear cut timbering, can do tremendous damage to the neighboring land. Mining of coal and uranium on one piece of land can affect the water supply or productivity of a neighboring piece of land.

When the private land owner is impacted by the use of a neighboring piece of land, or when he is hit by natural disaster, he turns to the government. At this point, government makes expenditures to relieve the disaster and also makes plans to alleviate future disaster. Alleviation of problems in the future requires the implementation of alternate uses of land or restrictions on the future use of land. These restrictions are necessary to justify assistance from the government, and to protect the public health and welfare.

Obviously, if we try to accomodate everyones' needs and to protect the rights of all citizens, there must be cooperation between the private land owner and all levels of government. With the complexities of today's society, it is essential that an educational process be implemented and that the public have every opportunity to take part and be a part of the planning process.

The State Planning Office has been invited, over the past few years, to have a limited involvement in the rural private land planning process. An example of this involvement is our participation in Historic Preservation Planning. We have inventoried cultural properties throughout New Mexico and have administered grant funds which allow individuals to restore and protect their cultural resources.

We have also prepared areawide county water and sewer plans for rural communities and assisted non-profit associations in obtaining funds and technical resources to construct water and sewer facilities. Our responsibilities for administering comprehensive planning grants under the Department of Housing and Urban Development's 701 program has also

introduced us, many times over, to the problems of private land planning.

I could go on with many more examples, but I would like to mention a planning process we are currently involved with. We call it an Environmental/Development Analysis or Critical Area Study. This project identifies and maps about 22 development variables such as slope, septic tank compatibility, prime farm and range lands, ground water availability, and mineral resources. Composite maps are then developed which will give a statewide picture of areas suitable or not suitable for certain kinds of development. As problem areas are identified, both public and private land managers will be made aware and will have an opportunity to modify their planning process. The result should be a savings in both public and private dollars.

I know I have tried to cover a lot of ground in a short time, but the question of who should be making land use decisions about rural private lands is a complicated one. The decision-making process has become more and more complex as the numbers of people increase and as their demands on the land resource increase. We see that the Federal Government has had a significant involvement in the process and that the private land owner has a responsibility to the land.

The first decision-maker, then, is the land owner. If a problem persists and infringes upon the rights of others or hinders the public health and welfare, then, the decision-maker, many times, becomes the government.

FOR THE BEST INTEREST OF NEW MEXICO, WHO SHOULD BE INVOLVED IN THE DECISION-MAKING ABOUT THE CHANGING USES OF PRIVATELY OWNED RURAL LANDS?

Presented By

Donald A. Neeper

Donald A. Neeper is a representative of New Mexico Citizens for Clean Air and Water, Los Alamos, New Mexico.

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The fact that we are discussing who should be involved in the decision-making means that we have made two assumptions: 1) that planning is needed for privately owned rural lands, and 2) that the planning should be effective; that is, that we want it to influence future developments.

These assumptions may seem self-evident, but I point out that past efforts for broad effective rural land use planning have been defeated in the New Mexico state legislature. Although the needs and purposes of such planning were made clear in the first Symposium which took place in Albuquerque six years ago today, we must remember that the majority of our elected officials disagree with the underlying assumptions of our discussion.

Having made these assumptions, then, let us turn to the question of who should be involved in the decision making.

When we think of rural land use planning and the implied restrictions on land use practice, we generally think in terms of the economic effect upon large extractive industry (such as mining) or the effect upon large corporate land developers, for it is these interests which are changing the use of rural lands. However, it is the individual who is really affected most by land use practice. Whether the individual lives in the city or in the country, or somewhere in between, land use will factor into the price of his bread, the purity of his air, the quality of his water, and the quantity of electricity available for his television set. Hence my first point is this: the individual person--John Q. Citizen--should be included in the decision-making. Now, most people want mostly to be left alone. They don't want to be bothered with more issues, or more duties, or more complexity. Yet the need for land use planning arises just because there are so many of us that people are bothering each other, whether they intend to or not.

An example of this is my own ranchito near Espanola. If my neighbor changes from rural use to urban use by converting his field to a trailer court, my orchard will probably not survice long. As it is, if my neighbor should invite more relatives to reside on his land, my domestic well may receive the effluent of his septic tanks. As you may know, the Espanola Valley is a region where the land has been divided among each father's sons for generations,

until the average plot is seventy feet wide by half a mile long. If the plots are once again split lengthwise, the land will not be economically viable for any use, either agricultural or urban. Thus, each landowner's actions affect the community. Similar effects occur with large land holdings --only the circumstances are different. The use of the land affects someone somewhere else, particularly in terms of pollution. Hence we must include John Q. Citizen in land use decisions. Only rarely will this individual actually stir himself to take part in the decision-making, but if you exclude him his sense of justice is violated, and he will be justifiably angry. To be fair to the affected party, then the decision-making must include the individual citizen.

To be fair, the decision-making also must include the economic party concerned. This is, for example, the farm corporation, the mining company, the power transmission company, or maybe the bank which finances all three. It not only would be unjust to exclude these purely economic interests, it would be impossible. If the decision-making does not involve the monetary interests, we can expect that the monetary interests will subsequently override all of the planning through legislative and political action.

To be effective, the decision-making should be based upon fact and established knowledge wherever possible. Therefore, we should include the experts, not only as staff advisors, but also as advocates. Experts are people who know very much about very little, and so to learn the whole story we may need to listen to many different experts. Experts are often shy. They are aware that their field of view is limited, and they dislike making judgements or answering broad questions. Nevertheless, we've got to encourage them out of the advisory status and into a position of advocacy, because it is only the advocates who initiate action and get things done. In the matter of a tough decision, one advocate or another will carry the day, and the small voice of the technical advisor will be heard only if it happens to support one of the advocates. We live in an adversary system, and I am convinced that all really significant decisions will take place in an adversary process. Two experts, who are opposing advocates, will do a good job of exposing all of the relevant information. If all of the arguments are left to non-experts, we will get an undigestible overdose of rhetoric.

The decision-making must be timely. Otherwise, we wind up deciding to build a fence after the horse has run away. For timely decision-making, the governing body should <u>not</u> be included. City councils, county commissions, and state legislatures have no time for detailed land use decisions. Their function is to establish the ground rules for decision-making, but not to do the deciding. Furthermore, land use decisions are controversial, and are best separated from the other political pressures of the day.

To be effective, land use decisions must be long range. Each of us more easily favors the short-range profit over the long-range goal. We tend not to police ourselves very well. This is why we have highway speed limits. But it is also why we have a federal agency telling the states to clean up air pollution, and the state authorities in turn telling the cities to clean up.

For discipline, we need some prompting and guidance by remote authority as much as we need our own local knowledge. For example, note how a remote authority enforces responsibility in taxation. The state of New Mexico regulates the taxing power of the local government, and as a result, New Mexico municipalities have good credit ratings.

Thus I propose an answer to the question, "Who should be involved?" For fairness and political acceptability, the individual citizen must be included because he is most affected. For reasons of fairness and political reality, the economic interests must be included. For effective decisions, we include the experts. For timeliness, we do not include the governing bodies themselves. For the discipline which promotes responsible, long-range decisions, we include a remote authority.

Now this must sound like a strange mixture, but, as I have already mentioned, we are already doing just this kind of thing in other areas of government. Let me explain how this might look in land use planning.

The legislature might pass enabling legislation which includes the basic rules. Under this legislation, an appointed state board adopts and promulgates the restrictions and requirements which shall apply to lower (perhaps regional or county) appointed boards. By the rules of the game, all decisions shall be based solely upon testimony given in public hearing. Anyone may testify, and anyone may cross-examine a witness. These simple rules allow the individual to present his case. These rules foster participation by experts because the decisions will be based upon testimony. Like the citizen and the expert, the economic interest can testity and present its case. These three...the citizen, the expert, and the monetary interest...tend to keep each other honest and to keep the facts in the open. Detailed elements of planning can be done by the board or its staff, but all proposals for decision will bear the scrutiny of the participants. Detailed local decisions are made by local boards, but the local requirements are set by remote authority, the state board.

This is very similar in practice to the decision-making system for New Mexico's pollution regulations. Here, the remote authority is the federal Environmental Protection Agency which sets some minimal limits for state conditions, and in effect prods the states into action. Our state Environmental Improvement Agency serves as the staff advisor for research and to propose actions, but the decisions are made by the appointed board. The board's decision-making process is governed by the very rules which I just stated.

Does it work perfectly? No. But in the end, decisions are made by appointed persons who are considering the arguments presented in open meeting by interested parties, and that is a good route for making decisions. Land use planning is a game we play for keeps, and we do well to minimize political back scratching. Each party is called upon to defend its case in front of the other parties, and I can tell you that this certainly reduces the number of irresponsible and unfounded arguments.

You may object that such a system is liable to manipulation by some particular party. All systems are subject to political manipulation because politics is the process by which we decide who gets how much of what, including pollution and land use. However, this judicial-like system is probably as free from manipulation as we can make it. This kind of system encourages open participation by the citizen, by the expert, and by industry, while leaving the actual deciding to a few appointed persons who are specifically charged with that task.

HOW SHOULD NEW MEXICO PLAN FOR THE PRIVATELY OWNED RURAL LANDS?

A Panel Presentation

Joseph E. Gant is a New Mexico Senator from Carlsbad, New Mexico.

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In accepting this assignment, I found that I had to redo my thinking a number of different times. I ran into a number of very interesting figures about food, feed, fiber and forests. These are among the most important elements of our very existence. And the United States has been a God-given country in that we have an average rainfall over this United States of some 30 inches a year. We have more than two billion acres of land; 1.4 billion non-federal land and available for agricultural use and I hope that you will agree with me that the food, feed, fiber and forest products are all really agriculture products. I think this is important. It makes no difference whether a crop is an annual, whether it's harvested every two or three years, or like alpine trees in the mountains every four or five hundred years; it's still a growing crop, it's still furnishing shelter.

And of this agricultural land, only 631 billion acres of non-federal land has been classified by the Soil Conservation Service as being Class I, Class II and Class III lands. These are the lands that are adaptable for the growing of crops. We are being classified by so many different agencies, so many non-federal entities that we need to have another symposium on just what we do mean. As an example, I would like to call to your attention that in the zoning law of this state, we use comprehensive. Comprehensive planning, master planning, general municipal planning. Do they all mean the same thing? Under certain conditions, yes, and under other conditions, no. Over the last 20 years, 54 million acres of crop lands have gone into irreversible use: mostly urban housing, highways, airports, power plants, solid waste disposal sites, shopping centers, reservoirs for water.

I call your attention to this in hopes that you will ask some member of this panel, other than me, why. It's time for us to start asking why. Under the HUD 701, and all of you have heard of this 701 section of the federal law - comprehensive planning grant - they're going to require a land-use element by August of 1977. These plans must include the energy facilities, provision for state, local, and regional land use agencies, and other requirements as established by the Housing and Community Act of 1974.

So you see, we're already in the middle of land use. Proposed amendments to the Clean Air Act are before the Senate Public Work Subcommittee on Environmental Pollution this last week. They concern land use. The Subcommittee would bring about an air quality planning program in which the states would have to adopt controls to ensure clean air. So I say again,

without a formal land use law, we are getting in and have been, over the years, into the problem of land use. And let me give you a quick review of the food, the feed, the fiber and the forest in the 48 contiguous states; grass land pasture, 26.7%; forest land, 31.9%; special uses of land, 7.8%; other land, 12.7%. If you will note, the last two add up to approximately 20%. Eighty percent of the land in this country goes for the four situations of which I spoke.

I had one of the foremost physical analysts of New Mexico, Miss Inez Gill, do a little study for me in connection with these rural lands and she says the information is apparently available, but it would take considerable time and money to unearth it. The very best maps that she has been able to find were prepared by the Bureau of Land Management. They show land ownership. And Miss Gill went to a great deal of time and effort to get some figures for me on the City of Albuquerque. The federal government owns 1,873 acres; the state government, 1,498 acres - this is inside the city limits of Albuquerque; the County of Bernalillo, 45 acres; the University of New Mexico, 2,778 acres; the Albuquerque public schools, 3,526 acres; Albuquerque metropolitan flood control, 1,676 acres; the Middle Rio Grande Conservancy district, 942 acres; the City of Albuquerque, 16,384 acres; making a grand total of 27,722 acres, inside the City of Albuquerque and they all get a free tax ride.

Now down where I live, in Eddy County, may I give you the statistics. Of the 100% land area, no more than 18.5% is in private ownership. The BLM controls 1,420,000 acres in Eddy County. There is more BLM land in Eddy County than any other county in the state. This means that if this land uses these environmental impact studies, they are already with us.

Other states are going into land use by regulation or by law. In my opinion, New Mexico would be foolish not to know what our neighbors are doing. At this point, we are going to have to control our actions by our better judgement. And may I close by quoting from a famous statement made by Chief Seattle, one of the great Indian leaders of all time, speaking to the officials of the Oregon Territory in 1854. He explained the native American's position and I quote, "This we know, the earth does not belong to man; man belongs to the earth. This we know, all things are connected, like the blood which unites one family. Whatever befalls the earth, befalls the son of the earth. Man did not weave the web of life. He is merely a strand in it. Whatever he does to the web, he does to himself."

Hoyt Pattison is a New Mexico Representative from Clovis, New Mexico.

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There's a saying that most of us may have heard in the past, that says you don't miss the water until the well runs dry. The central theme of this meeting today is land use; but you're kidding yourselves, it's not. It's food and production of that food. You don't miss the food until you go hungry. Have you ever been hungry? I don't mean miss a meal now and

then, I mean gut-knawing, sickening with hunger. You ought to try it sometime and then you will appreciate the value of food. Really appreciate it and what it takes to get it on your table. And land use planning by the producers of food is directly proportional to how much there is.

I can prove this. Of all the countries of the world that exist today, the one where there is the most planning is probably Russia. Now they planned on 215,000,000 tons of grain production this year. Maybe they will have 170,000,000. Now that was just to show you what planning does, when you get government so involved in the food production-distribution process that it affects producers of food, like it does in Russia.

What we're talking here today as far as rural lands are concerned, is the production of food and what it means to our nation, and not just our nation, but what it means to the world. Ladies and gentlemen, you better leave us alone, because it is tough enough to produce the food when you have to contend with elements and with nature and the straw that will break the camel's back is having to contend with your neighbors.

I heard someone say something about a bumper sticker on a car that said, "Let them freeze in the dark", (speaking of the gas and energy situation). Let's don't have that be, "Let them starve and freeze in the dark". And it very well could be, because land-use planning does not concern just agriculture. It concerns the energy that agriculture needs, the fertilizer that agriculture needs and all of the other inputs. And if you do not let the free market and economy operate, if you do not realize that you cannot repeal, no government can repeal, the law of supply and demand. It's going to operate in spite of any government or any person. And if the supply isn't there to meet the demand, somebody's going to be in a bind. And someday when the United States does become short of food, where can they borrow? We in agriculture are not going to be able to do anything about it, because we have tied our hands. Land-use planning is best done by the producer of whatever is involved in the particular land. We've had very successful land-use planning as far as agriculture is concerned and I think most everything else in the United States and the proof of that is what we had on our table here this afternoon. And what we have before us three times a day most every day. And they sure can't do that in any other country in the world. And the land-us planning we've had before has been done by the producer, by the man on the land. Let's keep it that way, let's improve it. If we have to have it formalized, where is that lease that was planned for my farm, for the land that I sharecropped on. Let the owner of that work with me. Let us present that plan to a county planning commission.

Part of the planning for the rural lands in New Mexico has to be done in Santa Fe or in Washington. The planning for the city of Clovis is done in the city of Clovis and we need to do our planning in Curry County and Roosevelt County and the other counties of New Mexico to the same degree. I need to do my own planning for my own farm operation. Most people in Santa Fe or in Clovis don't know about my north 160. They don't know

what you have to do to it or what you have to do to the spot that won't take water or the spot that blows if you don't take care of it right.

Lee Pittard is Chief Administrative Assistant with the Lieutenant Governor's staff in Santa Fe, New Mexico.

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First of all I'd like to apologize for Lieutenant Governor Ferguson not being here today. He did have a conflict in his schedule. He wanted to be here. I'm not here to speak for him. I speak for myself and I think he and I have had enough chances to visit and we both agree on a great number of points.

I think what we're really dealing with is not a very emotional social question and I'd like to somehow start a feeling. If just for a minute I could capitalize a little bit of our, the Lieutenant Governor's and my conversation, on some of these points and take a little bit of that emotion out of it and try to put it on a logical level. First of all, I think that the whole basis of our American society and why we're here today and why we have the food on the table and why we have beautiful lands to look at and what my children and your children can look forward to in the next 20 years; when you look back at the very basis of why this all exists, I think that too many times we forget that our country is based on a strong economic system. That economic system has its roots in private enterprise and an open market and a competitive market. I think that, at the very root of that competitive economic system, is our farmer and rancher. I feel like that from the very beginning of our country is when the farmer and the rancher, merchants and manufacturers have sprung up from this to provide the services and the products that our country needs. Now that's where we're at. That's why we're all here today.

I think that is vitally important to remember, knowing that this economic base is the reason for our existence and our prosperity, to know that land is the basis of all aggregates and for all production, whether it be all different types of the four approved food, feed, clothing and forests and to know that that land is at the hear of it all. And I think that is why we're talking about a very emotional question, because so many of the people here today are not only eating the food, but they are also involved in profitmaking from it. They're also involved in business, which is the American basis. That's what its all about. I think we ought to call it what it is. I think that Hoyt has mentioned some very good points about profit, about getting out of the marketplace, about letting things get back to a very clear capitalistic system. I think one of the toughest problems and that is that too many of us, and I include myself in that category, in government, in one way or another, whether we be in elected or an administrative position, find it very easy to avoid answering some of these tough questions. And it's very easy to ride that fence between a very environmental and a very idealistic outlook on what should be

happening with this land and that land and the one we want our children to look forward to. On the other hand, to not want to offend the landowners and the people that are the predominant voters of this state, I think that's part of our real problem. People that are out making decisions have to try to ride that line and make everybody happy. I'm not here to make anyone happy, so I'll just tell you what I think of it, and I think a lot of the Lieutenant Governor's attitudes will reflect the same things.

This is the question I think we ought to address ourselves to: Does the public body, whether that be a local county, whether it be a group such as this, or state government, or federal government; does it have the right because we are a united people operating under a system of law and governments to regulate how a land is used, whether it be privately owned or is currently publicly owned. Now that is the important question. Does this major public body of the United States, or our local county, have the right to dictate how that land is used. Now we're saying that we have the right to say how our air is used, and how our water resources for the public are used. But I think the question comes down to this, does a public body or the government have the right to dictate how land is to be used. I think the answer to that question is, what is the price that the public body is willing to pay for that.

And the long-range price is two-fold. First of all, the farming and ranching business is a very marginal business. It's not full of fat profits year after year. Maybe one out of five years is a good year. But if that old rain doesn't come over from West Texas and East New Mexico, you're in bad shape. And you can have five and six years and the bank may own you and your wife and kids and every future thing that you might have. It's a tough old business right now. Partly because I think the government is involved now in a free market system. Secondly, the other price that needs to be thought about is the price of the long-range production of food, as so many people have made the point here today. And we as a public body in our concern for not wanting development on certain lands that are now privately owned, not wanting that private landowner that has a ranch that just happens to border in an area that looks good for private development. Are we willing to look at that man and say, "Okay, we would like to see that this land is not used for a development", and somewhere down the line know that that fellow owns that land. He's in the business to try to survive and try to make a living and try to get along in our economy.

I think the essence of what I'm saying is that if we do decide as a nation, as a people, as a county, as a small group to say that we have the right to dictate what happens to that land. I think we've got to be willing to pay the price. That price may mean not having food in plenty, that may mean subsidizing in a major way the farmer who cannot make a profit that he needs to survive, when he is offered a much more lucrative amount of money for the land that he owns, land that should stay in agriculture. And I think we all would like to see it stay in agriculture. But when you're faced with getting a dollar for your agriculture business and your production, and you're faced with getting

another hundred dollars for selling that land for production and it's your own economic fate you're concerned about, I just can't believe how we all would react to that same situation. So if we're going to tell him how to use that land, we're going to have to pay for it.

So I think that one thing that we've got to do is try to keep some of the emotion out of it and try to get down to the real gut-feeling behind this, get down to the very bottom level, and I think that level comes back to economics.

Alvino Castillo is a New Mexico Representative from Raton, New Mexico.

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I'd like to discuss briefly and believe me, most of it off the cuff, some areas of agreement and disagreement as I discern them with respect to land use planning. It's not agreement or disagreement with general areas of recognition, but problems lying in areas of discussion. I think that generally it is agreed that there already is a substantial amount of, or degree of land use planning. I was particularly impressed by the presentation by Dick Folmar of the Legislative Council purpose yesterday. He admitted to the fact that his review was a rather cursory one. So it's a mass of legislation, a mass of laws in these statutes that is an indication of the amount of land use planning that we already have - by virtue of the statutes.

I think a review of our own lives would tell us that we have a tremendous amount of government involvement, to say nothing of organizations, some of which are represented here, the University, etc., who are engaged in land use planning and affecting our lives. I think this is one area of agreement - that we already have some land use planning. It's not necessarily a new topic. I think there could be and, probably is, general agreement that under any circumstances we can agree or disagree about the degree of land use planning. There should be no disagreement that the issue involved is a very profound one. Dealing for instance with property rights, I'm sure that enough of a point has been made with regard to property rights and land use planning.

We also deal with the issue of quality of life. We deal also, as Lee Pittard suggested, with the question of what we leave for our children and grandchildren - the issue of posterity. And if I may disagree politely with some of the comments and some of the ideas that have been alluded to, I think that there is emotionalism in the whole matter of land use planning. It's probably justified with this kind of profoundness of issues. There probably can be no other way a human being can approach a difficult matter, except with a certain degree of emotionalism. So I must say that if we recognize that we're all being emotional about the issue, it might lead at least partially towards meaningful dialogue about the matter. I think probably one of

the strongest areas of disagreement appears to be who should be responsible for land use planning. I've come here today, I was invited, but also inherently as a citizen legislator, without the answer to that particular disagreement.

I don't know who should be responsible for land use planning. I don't know whether any of us has the answer yet. But I do know that this kind of conference engenders at least meaningful dialogue. Once the emotionalism issue or aspect is set aside, if we roll up our sleeves and start getting down to reality and the recognition of the problem as it really is and if we look in the future and how it will confront us then. So I think that if anything comes out of a symposium such as this, it often means that we recognize the problems and we somehow try to engender more dialogue. We recognize that the solutions to land use planning are to be arrived at by continuing of discussion and research and that possibly we as legislators listen to, and I certainly stand here waiting to be instructed, because believe me I am not a doctrinarian and try not to be doctrinarian, particularly about this kind of issue. And if I may be personal, because I too was brought up in the rural areas and I have a tremendous stake in land use planning - one way or another. So I think as we all become less doctrinare, I wish to become more reflective rather than doctrinare, about what decision I would make in regard to land use planning. Perhaps this kind of rule for those of you who come to this legislature will help me make a decision. A decision that perhaps I had not anticipated or contemplated prior to what you may have told me. So to your question, how should new Mexico plan for the privately owned rural land, I hope to be further instructed by you in the future.

Sam Graft is Director of the State Parks and Recreation Commission in Santa Fe, New Mexico.

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I realize that the main thrust here is agriculture and private lands. I just don't see how you can leave this in isolation or a vacuum, because if you want to produce food you've got to have good men for it. You have to have someone to eat that food and they've got to have something to buy it with. Now if you attack the industries and the resources that they use and don't do any planning, someday you're going to run out of those resources. And people aren't going to have the money to buy your food and you're going to have to lease the farm for nothing. And in some cases we're already doing this.

I think you're kidding yourselves if you try to plan alone. You're not a single entity in the agricultural field or in the privately owned field. We're going to have to do it together. I don't think you can put a fence around a town like one of our speakers said today. I think if we could say, "Well, I'm going to put in a new system. I don't want to have anything to do with anybody else", and that is what you're saying

when you do that. When you've got those cities setting there, they have to eat, they have to get to work, they have to have a place to live, they have to have a place to recreate, and to ease their tensions, which in some cases are the same as yours. They need a place to go and finish school. So I think it's all interwoven.

At this point in time, when you recognize that yes, we have got to this point through the greatness of our private enterprise system, but we don't have quite the resources that we had when this country first started. We had unlimited resources. We had a very limited population. We're faced now with a greater population and the resources are limited and I think it's time that you and I together sit down and ask where is the country going? Where are going to be in 20 or 30 years? Do we want to have a relatively influential say in how the world turns, in world affairs; do we want to have a reasonable standard of living where we can be comfortable, or do we want to blow it all now? We can use our resources or we can take care of the problem like one of the other speakers suggested. He didn't want any regulations or anything to do until that problem showed up.

Well, I sure don't want to wait until that time, when we're out of water, we're out of oil, we're out of other natural resources. I think it's time to stop kidding yourselves, to start working with other people, to say we're all in this together and find a common ground. I disagree that you have to go to one extreme or the other. I think you're going to have to say yes, we can have this standard of living, but it's going to cost us this much. It's going to take this much of our resources or we can expend all our resources and we're going to be down at this level in our standard of living. So, I think it's time that you and I get together and start a program so we can see where we're going or at least determine what we want to do and how we're going to get there.

Grace Olivarez is Director of the State Planning Office in Santa Fe, New Mexico.

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In answer to the question, who's going to do land use planning, I think that is the question that we're supposed to ask of ourselves. Because the federal government is going to continue to do it and, as I mentioned in my speech this morning, the federal government has been doing land use planning from time immemorial down to the creation of the Department of Agriculture and then we go to the Agricultural Adjustment Act. Then we go down the line and land use planning has taken place over the years more and more.

I think that what we're faced with now is that in the 1970's we have, or attempted to, disguise our growth ethics. Because we've discovered what we're doing to ourselves and to the rest of the world. There was a time when the more the better, the bigger the better, and all you have to do

is go to the automobile industry. Their moral is the bigger the car, the better off you seem to be. Now you know we're really backpedaling as fast as possible to go into the smaller the car because we've discarded the growth ethic.

I think, all along, I'd like to kind of echo Lee Pittard's remarks. At least, if we in this country are willing to admit our mistakes, then fortunately we live in a glass house. The whole world knows that we're grappling with all sorts of domestic problems. The whole world knows that we've come to the point now where we want to put a stop to the growth that was taking place, because it was growth with no plans. That's why we're in the mess that we're in right now. So land use planning is taking place and because of the private property in our midst. If I want to build a house, there are certain laws that tell me where I can buy the land and what land is zoned and how much is zoned for construction of a home. The statutes of the regulations tell me how many bedrooms I can have. The statutes of the regulations tell me what kind of sewage system I can hook up into. The statutes of the regulations tell me what kind of material I must use for the construction of my house. The zoning ordinances tell us exactly where we can buy. You can't go into commercialized/industrial zoning and build a house. And industry and commerce can't come and build a shopping center next to your house, if it's not zoned for such. So the concept of private property to me is a myth, because you're controlled and you're dependent all along as to what you can do with your land. You're also controlled in agriculture by virtue of subsidy programs, by virtue of soil bank programs, by virtue of irrigation programs, for some of the smaller people. If you don't have the water, you just don't grow anything.

So, because we're getting away from the growth ethic, I'm glad we're not grappling with the problem. Somebody mentioned that the population is growing. It is not growing. On the contrary, this is one of the first nations that has dropped below replacement level. We're not even producing children to replace ourselves. I don't know how long that is going to last. We apparently got to that level in the 1930's and there was all sorts of screaming about how we were going to become extinct. Then we had the baby boom right after the Second World War, then we went into a baby bind. And then the whole issue of whether we were growing too fast became very popular and the last figure that we had was that we were just below replacement level. So we're not growing. What is happening is that New Mexico, because of the views that Lee Pittard talked about, because of the things that Representative Castillo talked about, is attracting a lot of people. Our growth is not really that natural. Except in some counties. We're just getting a lot of people coming from the outside. And we're trying to provide for the people who are moving in. So we're not growing on the national level. But we will grow in New Mexico because of everything that we have.

As far as land use planning, the decision must be made at the local level. I don't know if you agree with me, but I'm convinced that the local units of government, the local elected officials and the local citizens have to make their own decision. And you already know where I stand on the

issue of who makes the decision on rural private lands - the owner, as long as he doesn't infringe on the right of someone else.

Just one last word, everybody who echoes Sam Graft's comments, what we're really talking about is changing our style of living and I don't think we're ready to do that. Very, very few of us are willing to give up some of the things we've become accustomed to. But on the other hand, the minute that we exhaust our own resources, we lose our leadership position in the world. Because the other nations are now wise to the fact that we are the largest consumers of natural resources around the world. We're now facing a lot of static from nations that have been providing us with all their resources. Unfortunately, or fortunately, those nations are not powerful enough or economically independent enough to be able to really cut off supplies to us. They are still dependent on us for a lot of things. But the minute the nations become independent, we will continue to lose more and more of the natural resources. It has already happened with oil. It will happen in other areas. So it's up to us to pool all our natural resources right away. Because we don't want to change our style of living, but the price that we're paying for that is losing our leadership role in the world.

Dan Berry is a New Mexico Representative from Eunice, New Mexico. He was asked to participate in the panel presentation, replacing David Salman. His remarks are not available.

LEGAL AND POLITICAL PROBLEMS FACING EXTRATERRITORIAL ZONING IN NEW MEXICO

Presented By

Bob Stone

Bob Stone is with the Planning and Environmental Concerns Department, Subdivision and Zoning, City Office, Las Cruces, New Mexico.

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No recent issue concerning land use controls in Dona Ana County has generated more heat and controversy than that of extraterritorial zoning in the five-mile jurisdiction around the rapidly growing City of Las Cruces. Rallied by cries of "Regulation Without Representation", impassioned citizens living in rural areas around Las Cruces have successfully thwarted zoning by the City in its extraterritorial planning and platting jurisdiction. Opponents to extraterritorial zoning are also petitioning State legislators for the repeal of laws granting New Mexico municipalities land use control powers in areas outside their political boundaries.

This local issue has spawned legal and political problems which may have state-wide repercussions. To find workable solutions, we must first understand the rationale for states' endowment of extraterritorial powers to municipalities; the specific difficulties created by the New Mexico legislation, and the sources of citizen opposition to the exercise of extraterritorial zoning powers.

Two-thirds of the nation's states grant various types of extraterritorial powers to their municipalities that authorize the exercise of certain controls or duties in areas outside of corporate limits. These powers enable municipalities to efficiently deal with problems or functions relating to community growth, health, safety or welfare which are often area-wide in scope.

Extraterritorial powers have been exercised by municipalities for many years in diverse forms. In the late 1700's, the State of Maryland issued the City of Baltimore a charter which enabled it to prevent contagious diseases in an area within three miles of its city limits and to control river navigation within four miles of its boundaries.[1] In addition, the need for municipalities to insure an adequate supply of water and safe disposal of sewage has led states to provide extraterritorial powers for these functions. For the purpose of protecting water facilities and water supplies from pollution, New Mexico extends to its municipalities the jurisdiction and regulatory control powers over all territory occupied by the water facilities and over reservoirs and streams supplying the water, including all areas within five miles above the point from which the water supply is taken.[2] Other common extraterritorial powers include control over public gas, electric, transportation and communication systems; police and fire protection services; provision of parks, airports, and cemetaries; flood control, and land use controls.

Extraterritorial powers as they relate to land use are chiefly found in extraterritorial subdivision approval and extraterritorial zoning authority granted to towns and cities for controlling development in their fringe areas. The exercise of extraterritorial subdivision approval powers helps to insure that new development in areas which may eventually be annexed will meet municipal standards.

Extraterritorial planning and zoning authority stems from the desirability of guiding the pattern of urban growth and of preventing conflicting or offensive land uses from locating on the fringes of urban areas before the time they are annexed by towns and cities. Extraterritorial zoning may restrict development in rural areas naturally unsuited for it, such as flood plains, or in areas with inadequate soils, poor water quality or high groundwater tables. Development might also temporarily be prevented in certain rural areas at a time when it would be premature and cause conflicts with other economic land uses, such as occurs when haphazard checkerboard subdivision development dots the landscape in an area which was formerly highly productive agricultural land. Finally, extraterritorial planning and zoning can help to manage growth on the urban fringe (where it often occurs most rapidly) to dovetail with existing city development and be easily accomodated by planned municipal utility and arterial road systems.

New Mexico municipalities have had extraterritorial subdivision approval authority for nearly three decades, while their power to zone in their extraterritorial areas is of relatively recent origin. A 1947 law[3] first granted the authority to approve subdivision plats in an extraterritorial planning and platting jurisdiction. It defined the planning and platting jurisdiction for cities having a population greater than 25,000 to be five miles from any point on their corporate boundaries, while for municipalities having less than 25,000 population, this jurisdiction extends out only three miles. The law exempted from inclusion within the extraterritorial jurisdiction of one municipality any territory lying within the corporate limits of another municipality. Where two municipalities (over 2,500 in population) have overlapping jurisdictions, the law calls for each to terminate at a point equidistant from the boundaries of the two municipalities.

It was not until 1966, however, that the State Legislature gave municipalities the power to adopt zoning ordinances in their extraterritorial planning and platting jurisdictions.[4] A unique aspect of this law specifically excludes zoning by the county in a municipality's extraterritorial jurisdiction. If municipalities do not zone these areas, counties would not have the authority to fill the void, even if they have adopted a zoning ordinance for other areas in the rest of the county. Thus, an extraterritorial planning and platting jurisdiction has the potential of being a "no man's land" if a municipality doesn't care to zone, or is prevented politically from exercising its zoning powers there, as has occurred in Las Cruces.

Another problem with the 1966 law rests in the fact that although it gave municipalities the power to zone, it said nothing about procedures for adopting or administering extraterritorial zoning ordinances. A partial remedy was provided by a 1967 law[5] which outlined procedures for adopting an extraterritorial zoning ordinance through the establishment of a six-member Extraterritorial Zoning Commission consisting of three persons

appointed by the municipality, and three members appointed by the county. Any zoning ordinance applicable to the extraterritorial area must be approved by this body before it can legally take effect. If the six-member commission deadlocks in a tie vote, an arbitration procedure is outlined, where the district court judge appoints a resident of the judicial district who lives neither within the municipality nor the extraterritorial area to cast the deciding vote that would either veto or allow approval of the proposed zoning ordinance.[6]

While the 1967 law outlined procedures for adoption of an extraterritorial zoning ordinance, it remained silent as to its administration. Thus, in the absence of any new provisions, the municipality administers requests for zoning changes in the extraterritorial area just as it would zoning for areas within its corporate limits -- with hearings before Planning and Zoning Commissioners who decide whether to recommend zoning changes to the City Commissioners, none of whom reside in the extraterritorial area or are elected by residents living there.

Herein lies the problem: County residents whose property would be zoned have rebelled against the fact that they lack "ballot box leverage" over the public officials who can make ultimate decisions affecting the use and value of their land.[7] They have raised issues about the lack of accountability and self-determination, and have compared their own dilemma during this Bicentennial period to that of the American colonists who overturned an external authority because of "taxation without representation".

Many extraterritorial residents have alleged that the law allowing "zoning without representation" is unconstitutional. Requests were made to both the Dona Ana County District Attorney and the State Attorney General for opinions as to the constitutionality of extraterritorial zoning, but neither has rendered an opinion to date. Court challenges to extraterritorial zoning in other states have proved unsuccessful. Presently allowed in twenty-one states, extraterritorial zoning has never been declared unconstitutional as long as there was adequate state enabling legislation. Courts have consistently supported the concept that municipalities have a right to control land uses beyond their corporate limits to prevent haphazard or potentially offensive land uses from occurring.[8]

Other sources of local opposition to extraterritorial zoning in the Las Cruces area stem from deep-rooted feeling of distrust by many county residents towards the City government; fears that zoning will lead to annexation and higher property taxes; conservative beliefs that private property rights should not be violated by any form of government controls, and anxieties that landowners may lose a large part of their property's speculative value if zoned for low density development or no development, as in the case of flood hazard areas. The latter basis of opposition is particularly strong among farmers who fear loss of borrowing power on the speculative value of their land and who want to retain the freedom to sell off their land to developers and speculators at prices three-to-four times higher than those they could receive from other farmers purchasing it purely for agricultural use.

For reasons cited above, State enabling legislation granting municipalities extraterritorial zoning authority is currently under attack by organized opposition groups who would like to have it repealed by the State Legislature. However, given the apparent benefits of municipalities' having some control over development occurring in their fringe areas, we should seek methods by which the representation issue may be solved short of abolishing the entire concept of extraterritorial zoning. Several alternatives are worthy of consideration:

1. State statutes may be amended to enable all counties to zone within municipalities' extraterritorial planning and platting jurisdictions. This would alleviate the problem of the extraterritorial area being a "no man's land" in the absence of municipal zoning. A special provision in the State law gave these powers to Class A Counties.[9] Bernalillo, the only Class A County in the State, has zoned within Albuquerque's extraterritorial area. To protect municipalities' interests and encourage cooperation, the law stipulates that a municipality may also adopt a zoning ordinance for its extraterritorial area which would supersede the county's. In adopting and administering its ordinance, Bernalillo County has taken into account Albuquerque's legitimate interests, so that the City has not found it necessary to adopt its own extraterritorial zoning ordinance.

2. A variation of the above procedure: Allow both the municipality and county to adopt zoning ordinances in the municipality's extraterritorial area, provided that if the county adopts an ordinance, it would be able to supersede the municipality's ordinance. A majority of the states allowing extraterritorial zoning include this provision in their enabling legislation. This permits municipalities in rural counties to zone their fringe areas until the counties, themselves, are financially or administratively capable of doing so.

3. Existing State statutes allow for dual administration of a municipal extraterritorial zoning ordinance by utilizing the Joint Powers Agreements Act[10] which enables two or more government agencies to jointly exercise any power common to them. While current statutes prevent counties from <u>adopting</u> zoning ordinances within municipalities' extraterritorial areas, they do not prohibit counties from <u>administering</u> them. Thus, counties and municipalities may contract under the Joint Powers Agreements Act to jointly administer an extraterritorial zoning ordinance, giving the county three appointees and the municipality two appointees on a five-member board established to recommend zone changes, amendments and variances.

4. State statutes may be amended to allow for county adoption of zoning within municipalities' extraterritorial planning and platting jurisdictions, with the provision that before any

ordinance could take effect it must also be approved by the governing body of the municipality and that there would be two members of a five-member administering board appointed by the municipality to represent its interests. This would allow for municipal land use concerns to be taken into account while the political responsibility for adopting and administering the ordinance would ultimately rest with the County Commissioners.

State legislators and the Legislative Council should explore these and other alternatives before taking action to repeal existing statutes that would wipe out or cripple the concept of extraterritorial land use controls for the entire state in response to appeals of residents living in Las Cruces' extraterritorial planning and platting jurisdiction. Changes should be made. But they must be carefully studied and evaluated to balance the needs of municipalities with our citizens' rights of representative government.

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1 Russell Webber Maddox, Extraterritorial Powers of Municipalities in the United States, Oregon State College Press, Corvallis, Oregon, 1955; p. 8.

2 Section 14-26-3 NMSA, 1953 Comp.

3 Section 14-223 NMSA, 1941 Comp. This law was repealed and replaced in 1965 by Section 14-18-5 NMSA 1953 Comp. which, as amended in 1966, contains the same definitions of planning and platting jurisdictions as the original law.

4 Section 14-20-2 NMSA, 1953 Comp.

5 Section 14-20-2.1 NMSA, 1953 Comp.

6 The City of Las Cruces altered this procedure somewhat because it believed that it would be politically infeasible to merely seek the Extraterritorial Zoning Commission's approval of a zoning ordinance that had already been adopted by the City. Instead, it has included members of the Extraterritorial Zoning Commission in the entire planning and zoning process so as to give county residents an opportunity for input and representation in the adoption of a zoning ordinance affecting their land.

7 This popular concept of an "inherent right" for political pressures to be applied in the administration of zoning, points to one of the major weaknesses of this tool as a growth management technique: it usually fails to stand up under these pressures, with numerous zone changes and variances consequently being granted.

8 There is no New Mexico case law concerning the constitutionality of extraterritorial zoning. States with cases upholding extraterritorial zoning include Nebraska, North Carolina, Wisconsin and Kentucky.

9 Section 15-36-25 NMSA, 1963 Comp. (enacted in 1973, repealed in 1975).

10 Sections 4-22-1 through 4-22-7 NMSA, 1953 Comp.

APPENDIX A

Table 1. Land Ownership in New Mexico by County, 1971-72.

	1971 TO 1972						
	Private		State		Federal[a]		Total
	Acres	Percent	Acres	Percent	Acres	Percent	Acreage
Bernalillo	340,600	45.5	37,900	5.1	369,700	49.4	748,200
Catron	809,500	18.3	543,300	12.3	3,061,000	69.4	4,413,800
Chaves	1,893,900	48.6	723,800	18.6	1,281,200	32.9	3,898,900
Colfax	2,110,600	87.6	282,600	11.7	15,700	0.7	2,408,900
Curry	823,000	91.7	70,300	7.8	4,500	0.5	897,800
De Baca	1,167,200	77.4	249,600	16.6	90,800	6.0	1,507,600
Dona Ana	314,300	12.9	294,400	12.1	1,825,900	75.0	2,434,600
Eddy	528,000	19.8	491,400	18.4	1,647,700	61.8	2,667,100
Grant	894,200	35.2	376,300	14.8	1,270,300	50.0	2,540,800
Guadalupe	1,615,000	84.2	183,500	9.6	120,100	6.3	1,918,600
Harding	946,300	69.3	348,600	25.5	70,500	5.2	1,365,400
Hidalgo	963,700	43.7	359,900	16.3	882,500	40.0	2,206,100
Lea	1,457,500	51.8	886,800	31.5	466,900	16.6	2,811,200
Lincoln	1,808,100	58.2	301,900	9.7	999,300	32.1	3,109,300
Los Alamos	0	0.0	0	0.0	69,100	100.0	69,100
Luna	586,200	30.0	538,900	28.5	785,400	41.5	1,892,500
McKinley	575,100	16.5	192,100	5.5	2,723,300	78.0	3,490,500
Mora	1,049,600	84.5	84,400	6.8	107,600	8.7	1,241,600
Otero	649,900	15.3	461,500	10.9	3,136,900	73.8	4,248,300
Quay	1,583,100	85.8	246,500	13.4	14,500	0.8	1,844,100
Rio Arriba	1,027,400	27.4	123,100	3.3	2,595,500	69.3	3,746,000
Roosevelt	1,326,100	84.4	220,600	14.0	24,200	1.5	1,570,900
Sandoval	641,800	27.0	98,000	4.1	1,637,200	68.9	2,377,000
San Juan	190,100	5.4	188,300	5.3	3,145,500	89.3	3,523,900
San Miguel	2,460,400	81.1	179,300	5.9	394,700	13.0	3,034,400
Santa Fe	635,900	52.2	90,500	7.4	492,900	40.4	1,219,300
Sierra	469,000	17.6	368,700	13.8	1,828,500	68.6	2,666,200
Socorro	1,230,600	29.1	619,300	14.7	2,376,200	56.2	4,226,100
Taos	545,200	37.8	102,700	7.1	795,600	55.1	1,443,500
Torrance	1,610,100	75.2	307,000	14.3	224,100	10.5	2,141,200
Union	1,933,300	79.2	450,100	18.4	58,700	2.4	2,442,100
Valencia	1,804,000	49.8	258,900	7.2	1,557,000	43.0	3,619,900
TOTAL	33,971,700	43.6	9,680,200	12.5	34,073,000	43.8	77,724,900

[a] Includes Indian lands.

[b] Plus 141,500 acres of inland water area, total state acreage of 77,866,400.

Source: New Mexico Blue Book

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Table 2. Land Ownership Trends in New Mexico, 1957-1972.

Land Ownership Category	1957		1971-72		Percentage Change 1957-72
	Acres (Millions)	Percent	Acres (Millions)	Percent	
Private	32.3	41.6	34.0	43.7	+2.1
State	11.5	14.8	9.7	12.5	-2.3
Indian	6.3	8.2	7.3	9.4	+1.2
Federal	27.5	35.4	26.8	34.5	- .9

Source: New Mexico Blue Book
Land Resources of New Mexico

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Table 3. Trends in the Amount of Privately Owned Land in New Mexico, by County.

County	Percent Private			Percentage Change		
	1959-60	1965-66	1971-72	1960-66	1966-72	1960-72
Bernalillo	44.9	44.9	45.5	0	.6	.6
Catron	20.0	19.9	18.3	-.1	-1.6	-1.7
Chaves	42.5	42.9	48.6	.4	5.7	6.1
Colfax	87.5	88.9	87.6	1.4	-1.3	.1
Curry	92.7	92.7	91.7	0	-1.0	-1.0
De Baca	66.9	66.9	77.4	0	10.5	10.5
Dona Ana	8.0	13.6	12.9	5.6	- .7	4.9
Eddy	22.2	17.6	19.8	-4.6	2.2	-2.4
Grant	33.7	33.8	35.2	.1	1.4	1.5
Guadalupe	77.0	77.1	84.2	.1	7.1	7.2
Harding	70.5	70.8	69.3	.3	-1.5	-1.2
Hidalgo	46.6	46.6	43.7	0	-2.9	-2.9
Lea	42.5	42.5	51.8	0	9.3	9.3
Lincoln	58.0	43.8	58.2	-14.2	14.4	.2
Los Alamos	0	0	0	0	0	0
Luna	26.3	26.3	30.0	0	3.7	3.7
Mc Kinley	26.9	27.0	16.5	.1	-10.5	-10.4
Mora	85.6	85.7	84.5	.1	-1.2	- 1.1
Otero	12.8	12.9	15.3	.1	2.4	2.5
Quay	82.9	83.0	85.8	.1	2.8	2.9
Rio Arriba	28.3	25.5	27.4	-2.8	1.9	- .9
Roosevelt	85.4	86.8	84.4	1.4	-2.4	-1.0
Sandoval	30.4	28.6	27.0	-1.8	-1.6	-3.4
San Juan	9.4	9.4	5.4	0	-4.0	-4.0
San Miguel	80.4	80.3	81.1	- .1	.8	.7
Santa Fe	45.6	45.5	52.2	- .1	6.7	6.6
Sierra	20.6	21.7	17.6	1.1	-4.1	-3.0
Socorro	32.1	32.3	29.1	.2	-3.2	-3.0
Taos	52.5	52.9	37.8	.4	-15.1	-14.7
Torrance	63.6	63.9	75.2	.3	11.3	11.6
Union	77.9	77.1	79.2	- .8	2.1	1.3
Valencia	49.5	49.1	49.8	- .4	.7	.3

Source: New Mexico Blue Book, selected years.

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Table 4. Land Use Trends in New Mexico[a]

Major Land Uses	1945 Acres	1945 Percent	1959 Acres	1959 Percent	1968-70[b] Acres	1968-70[b] Percent
Total Cropland	2,367,000	3.0	2,650,000	3.4	2,678,160	3.5
Irrigated					(1,255,320)	1.6
Dry					(1,422,840)	1.8
Grazing & Timber	70,520,000	90.8	69,770,000	89.7	69,997,113	90.0
Parks & Game Refuges	310,000	.4	468,000	.6	591,190	.8
Urban	117,000	.2	198,000	.3	738,798	.9
Defense	2,060,000	2.6	3,142,000	4.0	3,268,572	4.2
Rural roads, railroads & airports	333,000	.4	395,000	.5	440,196	.6
Other	2,030,000	2.6	1,138,000	1.5	0	0
Total	77,737,000	100.0	77,766,000	100.0	77,714,740	100.0

Source: Inventory of Major Land Uses, United States, United States Department of Agricultural Economics, Misc. Publication No. 663, Washington, D.C. (1945 data). Major Uses of Land and Water in the United States, U.S.D.A., Economic Research Service, Farm Economics Division, Agricultural Economic Report No. 13, Washington, D.C., 1962 (1959 data). Country Profiles prepared by the New Mexico Interstate Stream Commission and the New Mexico State Engineers Office, Santa Fe, New Mexico, 1975 (1968-70 data).

[a]Data collection methods and some land use definitions changed during the 1945-70 period and thus the trend data must be interpreted with caution.

[b]Based on data collected for each county from 1968-70.

Table 5. New Mexico Land Use in Acres, by County, 1968-70[a].

County	Land Use Category[b]									
	Total Area	Inland Waters	Urban Built-Up	Roads	Cropland Irrigated	Cropland Dry	Defense	Parks	Commercial Timber	Grazing Lands
	(Acres)	(Acres)	(Acres)	(Acres)	(Acres)	(Acres)	(Acres)	(Acres)	(Acres)	(Acres)
State	77,866,240	151,500	738,798	440,196	1,255,320	1,422,840	3,268,572	591,901	6,269,160	63,727,953
Bernalillo	748,160	0	86,180	8,084	13,240	3,800	54,537	0	55,622	526,697
Catron	4,414,720	406	9,434	14,131	2,200	800	0	1,351	893,203	3,493,195
Chaves	3,900,800	1,200	39,751	22,761	105,730	800	0	27,123	2,635	3,701,180
Colfax	2,413,440	7,248	26,000	14,070	33,200	17,020	0	40,286	666,024	1,609,592
Curry	898,560	100	17,500	14,543	187,900	395,900	3,471	0	0	279,146
De Baca	1,514,240	3,760	10,200	9,932	9,190	1,400	0	3,491	0	1,476,267
Dona Ana	2,434,560	640	28,000	15,848	98,310	0	611,195	110,385	438	1,569,744
Eddy	2,675,200	7,439	25,314	19,077	78,000	0	1,575	46,885	10,806	2,486,104
Grant	2,540,800	488	27,955	10,994	7,760	840	5	1,880	110,893	2,379,985
Guadalupe	1,919,360	1,225	17,052	12,702	3,830	2,710	0	2,667	438	1,878,736
Harding	1,368,320	240	7,446	7,621	5,120	58,400	0	2	0	1,289,491
Hildalgo	2,206,080	16,074	10,470	10,217	35,230	0	0	40	11,666	2,122,383
Lea	2,812,160	2,640	40,275	20,777	101,500	21,310	0	0	0	2,625,658
Lincoln	3,109,760	173	20,837	15,265	4,940	300	193,486	463	304,375	2,569,921
Los Alamos	69,120	0	4,226	446	0	0	30,625	6,483	0	27,340
Luna	1,892,480	0	17,820	10,451	67,140	0	2,081	980	0	1,794,008
McKinley	3,495,040	3,521	18,703	14,545	5,440	12,200	22,119	15,186	260,454	3,142,872
Mora	1,244,160	1,411	5,885	6,475	15,460	9,950	0	3,084	184,759	1,017,136
Otero	4,248,320	0	33,623	15,230	14,900	1,100	1,376,071	90,216	493,305	2,223,875
Quay	1,845,120	4,675	16,934	15,680	49,100	299,100	0	633	0	1,458,995
Rio Arriba	3,765,120	16,496	22,101	21,045	38,860	12,300	193	21,271	1,041,676	2,591,178
Roosevelt	1,572,480	3,243	18,000	15,460	103,700	358,000	22,120	19,571	0	1,032,386
Sandoval	2,378,880	0	22,960	12,482	17,050	1,800	0	22,743	317,522	1,984,323
San Juan	3,530,240	9,648	18,607	23,837	52,000	9,000	0	24,571	82,434	3,310,143
San Miguel	3,050,880	11,977	17,249	13,629	12,900	2,000	5	11,388	361,721	2,620,011
Santa Fe	1,221,760	175	27,102	9,621	15,730	21,280	770	1,367	100,354	1,045,361
Sierra	2,700,160	39,477	10,652	8,445	8,840	0	513,143	51,666	40,346	2,027,591
Socorro	4,240,640	10,521	23,281	19,034	16,200	20,600	437,074	60,202	344,042	3,309,686
Taos	1,444,480	440	7,561	9,101	40,860	7,100	0	20,084	493,680	865,654
Torrance	2,147,200	6,020	16,444	16,627	33,330	51,010	102	240	103,227	1,920,200
Union	2,442,880	317	18,616	16,028	32,980	91,520	0	1,500	17,122	2,264,797
Valencia	3,621,120	1,946	73,000	16,035	44,680	22,600	0	6,143	372,418	3,084,298

Source: County Profiles prepared by the Interstate Stream Commission and the New Mexico State Engineers Office, Santa Fe, New Mexico, 1975.

a Data collected during the 1968-70 time period.

b Land is classified according to predominant use.

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Table 6. New Mexico Land Use as a Percentage of Total Area, by County, 1968-70[a].

County	Land Use as a Percent of County Totals[b]								
	Inland Water	Urban Built-Up	Roads	Cropland Irrigated	Cropland ...ry	Defense	Parks	Commercial Timber	Grazing Lands
State	0.19	0.95	0.57	1.61	1.83	4.20	0.76	8.05	81.84
Bernalillo	0.0	11.52	1.08	1.77	0.51	7.29	0.0	7.43	70.40
Catron	0.01	0.21	0.32	0.05	0.02	0.0	0.03	20.23	79.13
Chaves	0.03	1.02	0.58	2.71	0.02	0.0	0.7	0.07	94.88
Colfax	0.3	1.08	0.58	7.79	16.4	0.14	0.0	0.0	11.57
Curry	0.01	1.95	1.62	20.91	44.06	0.39	0.0	0.0	31.07
De Baca	0.25	0.67	0.66	0.61	0.09	0.0	0.23	0.0	97.49
Dona Ana	0.02	1.15	0.65	4.04	0.0	25.10	4.53	0.02	64.5
Eddy	0.28	0.95	0.71	2.92	0.0	0.06	1.75	0.4	92.93
Grant	0.02	1.10	0.43	0.30	0.03	0.0002	0.07	4.36	93.67
Guadalupe	0.06	0.89	0.66	0.2	0.14	0.0	0.14	0.02	97.88
Harding	0.02	0.54	0.56	0.37	4.27	0.0	0.0001	0.0	94.24
Hildalgo	0.73	0.47	0.46	1.60	0.0	0.0	0.002	0.53	96.21
Lea	0.09	1.43	0.74	3.61	0.76	0.0	0.0	0.0	93.37
Lincoln	0.0005	0.67	0.49	0.16	0.0096	6.22	0.01	9.79	82.64
Los Alamos	0.0	6.11	0.64	0.0	0.0	44.31	9.38	0.0	39.55
Luna	0.0	0.94	0.55	3.55	0.0	0.11	0.05	0.0	94.80
McKinley	0.10	.54	2.13	0.16	0.35	0.63	0.43	7.45	89.92
Mora	0.11	0.47	0.52	1.24	0.80	0.0	0.25	14.85	81.75
Otero	0.0	0.79	0.36	0.35	0.03	32.36	2.12	11.61	52.35
Quay	0.25	0.92	0.85	2.66	16.21	0.0	0.03	0.0	79.07
Rio Arriba	0.44	0.59	0.56	1.03	0.33	0.01	0.56	27.67	68.82
Roosevelt	0.21	1.14	0.98	6.59	22.77	1.41	1.24	0.0	65.65
Sandoval	0.0	0.97	0.52	0.72	0.08	0.0	0.96	13.35	83.41
San Juan	0.27	0.53	0.68	1.47	0.25	0.0	0.70	2.34	93.77
San Miguel	0.39	0.57	0.45	0.42	0.07	0.0002	0.37	11.86	85.88
Santa Fe	0.01	2.22	0.79	1.29	1.74	0.06	0.11	8.21	85.56
Sierra	1.46	0.39	0.31	0.33	0.0	19.00	1.91	1.49	75.09
Socorro	0.25	0.55	0.45	0.38	0.49	10.31	1.42	8.11	78.05
Taos	0.03	0.52	0.63	2.83	0.49	0.0	1.39	34.18	59.93
Torrance	0.28	0.77	0.77	1.55	2.38	0.005	0.01	4.81	89.43
Union	0.01	0.76	0.66	1.35	3.75	0.0	0.06	0.70	92.71
Valencia	0.05	2.02	0.44	1.23	0.62	0.0	0.17	10.28	85.18

Source: County Profiles prepared by the New Mexico Interstate Stream Commission and the New Mexico State Engineers Office, Santa Fe, New Mexico, 1975.

a Data collected during the 1968-70 time period.

b Land is classified according to predominant use.

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LAND-USE SYMPOSIUM

The Land-Use Symposium was organized in 1968 by a group of concerned people. This effort was spearheaded primarily by a committee of the Rio Grande Chapter of the Soil Conservation Society of America.

New Mexico State University and the Cooperative Extension Service assumed responsibility for the Symposium in 1970.

Purpose:

TO ENCOURAGE AND STRESS THE NEED FOR WISE RURAL AND URBAN PLANNING FOR THE USE OF OUR LAND AND NATURAL RESOURCES.

Objectives:

To identify problems of land-use in New Mexico.

To identify specific actions required to resolve land-use problems.

To create awareness of need for land-use planning in rural and suburban areas by local governmental bodies, particularly boards of county commissioners.

To provide land-use planners with ideas about how long-range planning leads to wise land-use decisions in the future, and to emphasize the flexibility and adaptability of land-use plans.

To provide the general public with information about benefits of land-use planning for the development of future communities in New Mexico.

To encourage regional land-use planning where feasible.

Keith Austin
Keith Austin
State Program Leader/CD
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Afternoon session:	Timothy Pettibone NM State University Arthur Cudworth Alb. Dist. Corps of Eng.

October 16, 1975

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Published and distributed in furtherance of the Acts of Congress of May 8 and June 30, 1914, by the Cooperative Extension Service of New Mexico State University, Philip J. Leyendecker, Director, and the United States Department of Agriculture cooperating.

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